

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Governor Brian Sandoval
Lt. Governor Brian Krolicki
Controller Kim Wallin
Frank Martin
Tom Skancke
Len Savage
Tom Fransway
Rudy Malfabon
Bill Hoffman
Dennis Gallagher

Sandoval: Good morning, everyone. I'm going to call the Board of Transportation meeting to order. Madam Controller, I understand you are participating telephonically. Can you hear us loud and clear?

Wallin: Yes, Governor, I can hear you. Thank you.

Sandoval: All right. And can you hear us in Las Vegas?

Martin: Yes, sir. Loud and clear.

Sandoval: All right. Proceed with Agenda Item No. 1, Director's Report. Director Malfabon, please proceed.

Malfabon: Thank you, Governor. Good morning, Board Members. First order of business is we're going to honor Scott Magruder, who retired recently. Typically we do this on a quarterly basis, Governor, but we thought since half the room's going to leave after Scott leaves, we'd just get it out of the way. We wanted to thank him personally for his 27 years of service as public information officer for NDOT. He saw a lot of great projects go out the door, a lot of challenges, a lot of phone calls to respond to, and we just wanted to thank him here in front of the Board with a photo-op. So, if we could.

Sandoval: Oh, and we have a..

Malfabon: We have his retirement clock...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: We have a clock and -- no, Scott, I really have appreciated and respected all the hard work that you've done. It's not an easy job that you've had for this amount of time, but you've handled it well. You've handled it with grace. You've handled it with the utmost of integrity. And, I don't know, are you still on the clock today or are you off the clock?

Magruder: No, I'm off the clock. I'm just getting a clock.

Sandoval: But, no, as I said, I mean, it's not often that you see somebody in your position work that long and that hard and that well for that period of time. So I personally want to thank you for everything that you've done for the department and for the people of the State of Nevada.

Magruder: Thank you.

Malfabon: Now, Scott is being replaced by Meg Ragonese. So Meg's going to take over those responsibilities and we'll be filling Meg's position shortly.

I wanted to acknowledge a lot of the MPOs, or Metropolitan Planning Organizations, NDOT met recently, Governor and Board Members. And we're discussing a lot of things: the federal programs, funding equity and where the money goes across the state, earmarks that were still remaining on the books from the previous transportation bills, fuel tax indexing and the ramifications of the public vote in three years, and a lot of other issues associated with the project agreements that we enter into, and the DBE program. And I wanted to thank those -- a lot of the MPOs are continuing the discussion with NDOT today, this afternoon after the Board meeting.

So we had Tina Quigley, General Manager of RTC of Southern Nevada; Lee Gibson, Executive Director of RTC of Washoe County; Patrick Pittenger, Transportation Manager of Carson City; Carl Hasty, District Manager of Tahoe Transportation District; and Nick Haven, Transportation Planning Manager for TRPA, Tahoe MPO, that were present at that discussion and they'll be continuing those discussions, as I stated.

Update on federal funding. The House Transportation and Infrastructure Committee Chairman Bill Shuster recently stated that he favors user fees, including a vehicle miles tax, to pay for a long-term transportation bill. He's not supporting a federal gas tax increase. Currently the federal gas tax is set at 18.4 cents a gallon. So, in previous discussions, he was supportive of

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

that, but no longer. He's concerned with the impacts of that gas tax increase to the economy.

Meanwhile, on the Senate side, I've reported before that Senator Barbara Boxer, who's the chair of the Environmental and Public Works Committee, is advocating for replacing the gas tax with a levy paid on oil at the refineries. So a different alternative there to be considered.

Meanwhile, there was a bipartisan bill that was submitted by Congressman John Delaney of Maryland. It's called the Partnership to Build America Act. And it would allow some companies to repatriate overseas earnings tax free by buying dollar-for-dollar bonds that would be a 50-year bond. It wouldn't obligate the federal government for repayment of those bonds. But they're hearing that some companies are willing to take them up on that offer, should the bill pass. And that money would create a fund that could be used for loans for infrastructure. The infrastructure areas are beyond transportation. They include energy, communications, water, and education infrastructure projects. But it is another opportunity to fund infrastructure needs in the nation.

And you've probably seen on the news a lot of comments by the president and the vice president recently about the state of infrastructure in our nation and the need to invest in addressing our infrastructure needs. So we're hopeful that that translates into support for the next transportation bill, which expires currently on September 30th of this year. And I will be going to Washington, D.C. for our annual visit to our Nevada delegation and a meeting with the AASHTO group, the other DOT Directors and Secretaries on February 26th and 27th. So I'll report back at the next Board meeting on how that went.

I wanted to report on the fatality report. Previously, there was a story that went out in January that was a joint press release with NDOT and the Department of Public Safety and all of our partners in traffic safety. We had reported that there were four less fatalities. And, subsequently, we found that there was a pedestrian fatality in Las Vegas right at the very end of the year, which dropped it to three fatalities compared to 2012. Subsequently, there was a swing to the positive side, and I'll explain what happened. But it ended up that, after the final numbers came in, there were five fatalities more in 2013 compared to 2012.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

So I asked staff what happened and, obviously, we don't like that kind of swing in the numbers. What they told me was that there's a -- the Fatality Analysis Reporting System, or FARS, basically, the data is fed in from law enforcement agencies. And some law enforcement agencies don't submit the data until they complete their accident and their crash investigation, and can make the final data available in the system. So there's a time lag between when some law enforcement agencies enter their information, or at least provide a teletype to the Office of Traffic Safety, which is a Nevada office from the Department of Public Safety.

So OTS, Office of Traffic Safety, and NDOT, what we do is review media reports about fatalities, try to match that up to the numbers that we're seeing from the law enforcement agencies, and then we follow up on any kind of discrepancies. Another thing that happened was that, typically, at the Lake Mead National Recreation Area, Nevada Highway Patrol would investigate those types of crashes that involve fatalities. But in this particular case, it was investigated by National Park Service rangers. And those two fatalities were not reported until we followed up with that discrepancy.

In the future, I've asked staff not to put out that press release immediately after the first of the year, as happened this year, until we finalize the numbers from law enforcement, match that up with any kind of inconsistencies and follow through, and report the fatality statistics in the later part of January, when we're assured that the numbers are trued up.

Status report on Project NEON. Shortly after the Transportation Board met in January, the State Board of Finance approved the issuance of the \$100 million in bonds. And we're working with the Bond Council and the State Treasurer's office for that issuance. We also entered into a cooperative agreement with the City of Las Vegas. The City of Las Vegas is providing \$20.5 million for their infrastructure, the bridge of Martin Luther King over Charleston Boulevard and some other local improvements. And this week we're conducting one-on-one meetings with the three P3 teams that have been shortlisted. And we've released the draft request for proposals, RFP, and so we expect a lot of back and forth questions, feedback from those three teams before we edit the final RFP, bring it to the Board for issuance and then get Board approval before we put that back out there in final form.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

On the Blue Diamond safety project that we discussed last month, I have an update that we looked at using federal funds. And for the ease of programming, if we use state funds, it would not require a STIP amendment through the RTC and then FHWA. So we felt it would be more timely just to use the state funds that are available for that project. A field review took place with NDOT engineers checking out the actual field conditions, taking measurements, and the design effort has commenced. We are looking at acquiring the steel poles through state purchasing for that traffic signal at Cimarron. So it'll be provided as state-furnished material under the contract for that traffic signal. And that would expedite the construction of the project, instead of having the contractor fabricate the poles.

We are looking at the possibility of a separate contract for crosswalks and pedestrian push buttons and pedestrian signals at Buffalo and Durango signal systems on Blue Diamond. That's just so that if there's any hitch in the traffic signal design at Cimarron, that we could still contract those out quickly. In fact, if they're state funded, the estimates for Durango are \$200,000 approximately, and Buffalo about \$150,000; those two projects could actually be contracted out through a more expedited process that's allowed when we're using 100 percent state funds, and it's called the informal bid process, allowed by NRS.

And the Cimarron signal is estimated at about \$560,000. And that will be a separate construction contract. The schedule is anticipated that we'll have final plans around early April, advertise for bids around late April, open bids late May, have a notice to proceed to our contractor for the signal at Cimarron around early July, and try to complete the project by late August, early September. We're trying to target before school starts in late August. And so that's good news on the Blue Diamond safety issues.

I wanted to report on the DBE program. You'll recall in December, I believe it was, the Board approved the submittal of the triennial goal to the FHWA for the Disadvantaged Business Enterprise program. In the disparity study, the consultant that conducted the disparity study for NDOT determined that there was a base figure of 4.5 percent. And they had an adjustment called the step-two adjustment for past DBE participation and for disparities in the business ownership rate. So we had 4.5 percent. We had 1.08 percent adjustment for past participation and 1.40 percent for

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

disparities in business ownership. That totaled at 6.98 and there was a discussion whether round-off error was 6.98 or 6.99, as you recall.

The Federal Highway Administration took that and sent it over for the legal review, and the legal reviewers at FHWA said that NDOT can't do both step-two -- they can't do two adjustments in the step-two adjustment. So you can only do either the 1.08 or the 1.40, so we opted for the higher of the two. We have not received anything in writing yet from the FHWA legal staff through the division office. But we're awaiting that confirmation in writing. But we believe that they'll respond that the 5.9 percent will be the triennial goal, because of that inability to have both numbers added to our base number of 4.5 percent.

This is an overarching goal for the DBE program for the next three years. And it will not affect the project-by-project goals that are established. So there's a different process for establishing project goals on professional services contracts and construction contracts. So, ultimately, I don't think it will have an effect on the project goals. But when we assess how we're doing as a program, that's really where it comes into effect. It's obviously easier to achieve that lower number that the USDOT lawyers come back with, but it will not affect the project-by-project goals that are established.

Another issue that's come up related to the DBE program is, typically, federal funds pass through to the RTC. They distribute it to the local public agencies. In this case, City of North Las Vegas received a substantial amount of federal funds for a project called North 5th Street. And when they take in the bids, if the apparent low bidder does not meet the DBE goal that's established in the contract, there's a review called a good faith effort review. Because the City of North Las Vegas doesn't have DBE staff, NDOT has the responsibility by the agreement with the city to establish the DBE goal and also to conduct a good faith effort review. We did the review on the apparent low bidder and determined that he did not meet -- it was Meadow Valley Contractors Incorporated -- they did not meet the good faith effort standard that NDOT uses based on the federal program regulations.

Subsequently, Meadow Valley asked for an appeal, and there is an administrative process called administrative reconsideration. The reconsideration was done by McCarran Airport. So the Clark County Department of Aviation does have DBE staff and they're part of the group

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

that has a unified certification program for DBEs in Nevada. Excuse me. So Clark County Department of Aviation conducted the administrative reconsideration of Meadow Valley's good faith efforts, and they determined that Meadow Valley did meet good faith efforts, so reversed NDOT's decision. There is no appeal process for that determination of administrative reconsideration, so that was the final answer, although we disagreed with that determination.

So subsequent to that the City of North Las Vegas City Council had to -- they received a bid protest from Las Vegas Paving, the second low bidder, in December. They considered that recently or were considering awarding to Las Vegas Paving, but the Federal Highway Administration wrote a letter to NDOT saying, you can't award that to Las Vegas Paving, or else we pull federal funds, because it's not following the process. In other words, Meadow Valley appealed. The Department of Aviation Clark County determined that they met good faith effort standard. And so the options to the City Council were award to Meadow Valley or basically re-advertise the project.

They heard this issue last week and decided to defer the decision. They decided not to award to Las Vegas Paving, but deferred the decision until February 19th on what to do; either award or basically re-advertise the project, so we'll keep the Board updated on that.

There are some other projects that we've heard that are under this type of situation, where the apparent low bidder did not meet the DBE goal and has to go through administrative reconsideration. I believe the RTC of Washoe County has offered their DBE staff to help in review of this good faith effort determination. The members of the United Certification Program are the Carson area MPO, RTC in Washoe County, RTC of Southern Nevada, NDOT, and the two airports in Washoe County and Clark County.

One of the things that we're doing to address DBE issues and this issue of good faith effort is to work with the construction industry. Recently we formed a group with the RTC of Southern Nevada. We had a construction industry working group up here in Northern Nevada. And one was formed in Southern Nevada with the help of RTC of Southern Nevada and the AGC Chapter down in Southern Nevada. So we're working with those contractors as representatives of -- get their perspectives on that.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

We'll work with the local public agencies that are recipients of these federal funds, with the RTCs, with Federal Highway Administration, and develop training for those recipients of federal funds, and really address this issue collaboratively, because it is complex. And we want to make sure that people understand -- from the councils and commissions that have to determine award decisions based on these DBE goals, that everybody understands what their options are.

I wanted to mention also that we provided the performance management report to the Board last month. And Member Savage had mentioned that, on the agreements, the processing time had a goal, and it had a goal of 50 percent with an ultimate goal of 90 percent. I'm pleased to report that staff actually, after the first of the year, had determined that they should consolidate the goal to 90 percent, after they looked at the agreement processing time and said let's just measure from when NDOT gets the agreement and make it a 90 percent achievement goal to turn that around within the stipulated time.

So we did address that. Staff actually was probably too shy to come up and mention it during the Board meeting. But I was pleased to hear that they're being proactive and considering that type of thing, and taking responsibility for what we control on NDOT's side.

And, finally, there is an RE, Resident Engineers meeting. Resident engineers are the ones that manage our construction projects, so they have a lot of responsibility with that and working with our contractors and seeing a project being delivered. They are having their annual meeting with the district management staff and headquarters construction division staff in March 25th through 27th. And they would welcome any kind of support from and presence from the Transportation Board Members that are willing to attend. And those meeting times are from noon on March 25th to around noon on March 27th. And they would accommodate any Transportation Board Members that were willing to come and address the group. It's going to be at the Henderson Convention Center.

With that, that concludes the Director's Report, Governor.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: Thank you. And going back to the DBE, we've had that representative here twice, who's told us twice that that is the number. Are we certain now we are where we need to be in terms of DBE determination?
- Malfabon: When we receive the written response from FHWA -- I don't believe that they've received it written from their lawyers. So the division office will inform the department and will let the Board Members know. But right now I would say that it's not an approved goal by the -- it has to be approved by the legal representatives from the USDOT. So I can't say that it's definitive yet, Governor, until we receive it in writing, but we believe that it's 5.9 percent.
- Sandoval: He seemed pretty certain last time.
- Malfabon: Well, that was the division office, and the division office worked with us and our consultant. They're the local representatives, but they're not the legal reviewers from USDOT. And obviously the legal reviewers have a different perspective and they have to make sure that it's legally defensible in court. They're looking at what's happening nationally and what challenges the DBE receives nationally. Whereas, the division office felt that it was acceptable to them. But they did say that it had to still go through the legal review, which took some time, and this is what we're hearing verbally, but nothing in writing yet.
- Sandoval: Okay. Because we're paying the expert to get that number, correct?
- Malfabon: Yes.
- Sandoval: So we've kind of come full circle twice now, and now we're going around the third time?
- Malfabon: Yes. But the expert is not in contact with the USDOT attorneys when he's putting together his recommendation. We're usually dealing directly with the division office and reviewing the disparity study, what's substantiated by that study. So we felt comfortable with the number that we had submitted. But the attorneys from the USDOT had some concerns with that double -- basically a double-dip on the step-two adjustment.
- Sandoval: And then on this process that you described with Meadow Valley Construction and this good faith effort and -- the process of appeal seems

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

somewhat random. Like you had to go out and find the Airport Authority to do this check.

Malfabon: Yes.

Sandoval: Is there not a formalized process for that?

Malfabon: We're able to establish our own process, and there's different methods that are available to us. We could actually have a person or a panel within the Department of Transportation that wasn't associated with the initial review make that determination. In this case, we felt -- at least I felt that, well, the Meadow Valley or someone else could say, well, of course you're going to agree with yourself, you did the review the first time. So the idea was to use one of the Unified Certification Program members to do this review.

Unfortunately, the procurement officer that's familiar with the DBE program at the RTC of Southern Nevada wasn't available. So the next person or group in Southern Nevada that was available was the Airport Authority. And obviously we didn't agree with that determination after they reviewed it. But others in the UCP and RTC of Washoe County had stepped up and said, we'll be available for a review. We're reconsidering that maybe we want to just do that in-house. I looked at -- researched this on the Web and saw that Minnesota DOT just has a review panel internally. Maybe that's the way that we want to go, Governor, as a process.

But, really, it's just NDOT has to define the process and then follow it. So FHWA will work with us on the development of that process and inform us of what other state DOTs are doing, and maybe we'll come to a better method. Because, obviously, an airport, they do some construction projects, but they're primarily in the field of concessions and different types of business with DBEs.

Sandoval: Well, and I'm not being pejorative of the airport and its process and its determination. It just seems, well, we found the airport, and next time we're going to find the -- we're going to use Washoe, and it doesn't seem real cohesive in terms of that process. And then I think I heard you say that once that determination is made, that's the end of the line.

Malfabon: Yes.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: And -- which is fine. Again, I -- but I just want to ensure that once that decision is made by whoever ends up making it, the airport or Washoe County, that there's no jeopardy after that in terms of the federal government.
- Malfabon: Exactly.
- Sandoval: They respect that decision and it's final, whatever that decision may be.
- Malfabon: Yes, they did. The Federal Highway Administration accepted the decision. It was the City Council that started looking at the alternative of awarding to Las Vegas Paving, which wouldn't have been supported.
- Sandoval: Which would have caused some issues with the federal government, but, you know, this is still an open question. The North Las Vegas City Council could still determine to put this back out to bid, correct?
- Malfabon: Yes.
- Sandoval: And if that happens, does that involve NDOT in terms of an issue associated with potential litigation with Meadow Valley?
- Malfabon: It's possible that we would have to be there for support of the City of North Las Vegas. I believe that they're going to be involved in a -- or they have the chance of a lawsuit, regardless of whether they award it to one or the other.
- Sandoval: I don't -- I mean, North Las Vegas can take care of itself. But my question is what is the issue for NDOT?
- Malfabon: Well, NDOT and the Federal Highway Administration would most likely have to be testifying about the DBE program and, basically, the process.
- Sandoval: Okay.
- Malfabon: We wouldn't be -- I don't think that NDOT would be liable or the State of Nevada would be liable for anything associated with that, other than the legal expenses of being in court. Now, obviously, the City of North Las Vegas is making their decisions on that, but what we're doing is providing -- and the Federal Highway Administration division office is providing the -- this is what will happen if you do certain actions. What's available to them.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: Yeah, and I guess what it's going back to is my concern about there not being a formalized process with regard to this appeal for the DBE and finding an entity to do this. Because later on there could be an open question as to how NDOT handled this whole thing. So that's why I think it'd be better for us to have a more formal process if this happens.
- Malfabon: We agree, Governor, that we need to have a more formalized process that FHWA approves and that we follow that process from then on. This is a newer requirement, this administrative reconsideration. So we didn't deal with this -- or this was the first time we had to deal with it.
- Sandoval: I don't know if Mr. Gallagher has any comment.
- Gallagher: For the record, Governor, Dennis Gallagher, Counsel for the Board. You raise a very valid point. And depending on what the City of North Las Vegas decides, may dictate what some of the construction companies who are involved in this, what avenues they seek. I think it's quite possible that if litigation is commenced, that NDOT and the state will get dragged into it. I can just represent to the Board that, you know, my office will do its utmost to get us out quickly. But there have been so many touch points in this process; it involves a lot of parties. And, as you also noted, it's kind of an undefined process at this point in time. And it is, I believe, in the department's best interests to formalize this process. And so, on a go-forward basis, everybody knows what the procedure is.
- Sandoval: Thank you. Member Skancke.
- Skancke: Thank you, Governor. On that kind of line of questioning, you know, as our state continues to grow, these issues are just going to become more and more demand -- can you hear me? No? The red light is on and nobody's home. How about now? Oh, god. They can hear me in Elko. So what I was saying was that, as our state continues to grow, we're just going to continue to run into these issues. And so if there's a way we could be more proactive as the federal government makes these changes in federal highways and Congress passes all these rules and all these laws, is there a way that we can be more proactive, as a Board, to help set that policy? Is that something this Board would do? And if it is, Governor, would it be appropriate to maybe establish a subcommittee of some sort to work with the department that we could come back to the full Board with a recommendation? seeing it across the country. If other states have gone through this, we could do some research and find out what they have done and maybe bring those recommendations back.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

But I'm surprised, in 2014, that we still have to have these requirements as part of our projects. But regardless of that, I'd rather have us be proactive going forward than having to be reactive.

- Malfabon: In response, I would say that it's -- I would recommend that the Board allow us to follow what I had mentioned about working with the construction industry, with Federal Highway Administration, and the planning organizations which do have DBE staff typically. So work together and then work with the local agency subrecipients of the federal funds, so that we're all on the same page. And, ultimately, it is up to Federal Highway Administration to approve the process that's established. Obviously, we can bring that back to the Board, as far as a more definitive process that we could discuss at the Board meeting. But I would say having a task force or a separate group from the Board -- I don't think it would -- it would just be another step I think. And I think that we want to deal with this rapidly.
- Sandoval: Thank you. Any other comment on this issue? Member Fransway.
- Fransway: Thank you, Governor. And, Dennis, help me out here. But it seems to me as though the ball is in the court of the North Las Vegas City Council, in that if they decide to go back out to bid, first of all, they will have to rescind the previous action taken. Then they would have to, by vote, go back to bid by a vote of the Council, correct?
- Gallagher: For the record, Dennis Gallagher, Counsel to the Board. Member Fransway, that is my understanding, that they have postponed the vote and it will be considered at their next meeting.
- Fransway: Okay. If they do rescind action then they will have to take further action to reject the low bid, would they not?
- Gallagher: To seek putting it out to bid again, yes. They could combine it in a single motion, but those are two related actions that would be necessary.
- Fransway: Okay. So NDOT can't do anything until the decision is made by North Las Vegas City Council, correct?
- Gallagher: That is correct. It is not NDOT's decision to make.
- Fransway: Right. Thank you, Governor.
- Sandoval: What I would ask is that we put this on the Agenda again. We're not going to figure this out today. Member Skancke has suggested that there be some type of

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

task force to look into this. And when you bring something up, you also get the fun of chairing it.

Malfabon: Member Skancke is not in the room, obviously.

Sandoval: But, you know, frankly, I wouldn't say I'm confused, I'm concerned I guess, because this process does not seem to be cohesive. And it just could prompt litigation and liability for the state later on. I don't know what this task force is going to look like. What I would ask is that, at least for now, that Member Skancke perhaps converse with the Director and counsel to start putting a little more meat to the bones on this and so that we can have a more informed discussion on the issue, because we're hearing it for the first time today. So with your permission, Member Skancke, I would ask that you chat with the Director and Mr. Gallagher and perhaps formalize a proposal for consideration on our next Agenda at our next meeting.

And then, finally, I know we need to move on, but on that crosswalks issue for Blue Diamond, Mr. Director, so you said in order to expedite and get it done, we're going to use all state funds for that.

Malfabon: Yes.

Sandoval: Will there be an opportunity for the state to recoup some federal funds that normally would have been used for that project?

Malfabon: We're pretty much -- our plan is to use up all of the federal obligation authority that's available to the department. So if we were to try to recoup federal funds for this project, Governor, we would be back in that process of going through the RTC, who would basically program this as advanced construction, which makes it eligible for reimbursement later. But we have a lot of other projects that have been advance constructed, so there's a lot, kind of, on the books that can be still recouped from the federal government. I would say let's keep this state funded and go forward, so we don't have to get back into the STIP amendment process and submittal to FHWA.

Sandoval: Yeah. And, as I said, there is a sense of urgency for this, and I thank you and the department for making this a priority. Last question on that issue is what is the out-the-door cost for that, do you know?

Malfabon: The signal system was \$560,000. It's roughly about \$900,000 for all three intersections improvements.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: All right. Money well spent. I'm glad that we did it that way. Board members, any questions or comments on the Director's Report?

Okay. Then we'll move on to public comments. Any member of the public here in Carson City that would like to provide comment to the Board? Any member of the public in Las Vegas that would like to provide public comment to the Board?

Martin: Yes, sir. We have what looks to be two.

Sandoval: Good morning, sir. If you would identify yourself for the record, please.

Newsome: For the record, Shaundell Newsome, Urban Chamber of Commerce board member. I just have a comment. I agree with you, Governor, that there -- and Member Skancke also, I have some concerns as well. One of the things that I have a concern with is the stated goal that is in place. I think that it's important that, as Member Skancke said, that we shouldn't have to have these types of initiatives in 2014. However, we just can't count on the contracting community to play fair when it comes to small businesses. And remember that some of these DBEs are not just ethnical operations. We're talking about veteran-owned businesses, women-owned businesses and small disadvantaged businesses that just need a leg up to get themselves in the right direction.

One of the things I believe is that the consistency. So, if NDOT made a decision that the goals were not met, then how is another entity evaluating? Are they evaluating on a different scale? Are they looking at it from a different perspective? I believe that the process should be consistent all the way through, just like the legal process is. If there's a law on the books, then they go based on the law. They don't go subjective to somebody's opinion. So I just wanted to go on the record as stating that I believe that the process should be clear. I'm a 10-year veteran of the United States Air Force. I'm a small-business owner. And I believe in -- and also worked in gaming for seven years. And every place I've been had rules. And the rules were very, very clear and concise, and everybody knew what rules we were playing by. But this seems to be kind of a gray area that does not work in the advantage of the DBEs. Thank you.

Sandoval: Thank you very much. And we'd love to have your participation as we move forward with this subcommittee. And that's the point of it is, you're right, it is vague and unclear. And I think everybody needs to know what the rules are so that we can all follow them.

Okay. Any further public comment?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Evans: Yes, sir. Good morning, Governor Sandoval, Members of the Transportation Board. For the record, my name is Kenneth Evans. I'm the president of the Urban Chamber of Commerce. First of all, I want to say thank you very much to the Board attorney, Mr. Gallagher, for receiving my previous comments that were submitted for the record about the DBE goal establishment as a part of the triennial requirement. I won't totally restate that letter, but suffice it to say that our concern is that that goal be high enough to allow our membership to grow in terms of existing DBEs, to grow in terms of future DBEs as yet to be identified, as well as, last but not least, businesses that have yet to be formed. Again, we want to make sure that that DBE goal was high enough to allow the greatest capacity possible.

Regarding the situation in the City of North Las Vegas, the Urban Chamber of Commerce was very vocal and visible in supporting the use of a -- or supporting a decision that rewarded an actual accomplishment of the DBE goal. Our understanding is that there were two contractor entities that actually met -- well, not just met, they substantially exceeded the DBE goal in the North Las Vegas jurisdiction.

Moving forward, our concern is with precedent. If the decision is made to move forward with a decision that awards good faith versus actual accomplishment or exceeding the DBE goal, our concern is that that's going to detrimental to our small businesses, to our DBEs that are not only a part of the Urban Chamber, but in general part of the small business community. And considering the fact that the small business community is the one that, right now, employs quite a few people and creates business opportunities for quite a few people, we don't want to see that happen.

But along the lines with my Board member here, we want to make sure that a process ultimately is created that is fair, clear, and concise, that we can all play by the rules of and, at the end of the day, will also be beneficial to the small business DBE community, as well as our Urban Chamber membership. So, with that, thank you very much.

And we offer ourselves to be a participant in any of these task forces or committees. By way of background, I'm a retired Air Force lieutenant colonel. I served as a pavements engineer. I have a civil engineering degree from the Air Force Academy, so I think we bring some technical expertise to bear about this issue, as well as other issues that may come forward. So thank you very much, sir.

Sandoval: No, and thank you. And we welcome your input. And, as I said, we'll formalize this process. This will be an Agenda item next month, so I'd encourage you to be at

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

next month's meeting. And then after that I'm sure we'll have a regular schedule for the meeting of the subcommittee.

Evans: All right. Thank you very much, sir.

Sandoval: You're welcome.

Quigley: I just want to say thank you to the Board for highlighting this as an issue. This has been something in Southern Nevada we've been struggling with, with NDOT and North Las Vegas City Council, and my Board and FHWA. And so we very much appreciate the thought of a task force, wherein we can kind of formalize and it'll force us to sit down and really come up with something that we report back to you -- that Tom will report back to you. So I just wanted to say thank you.

Sandoval: And, Ms. Quigley, just for purposes of the record, if you'd identify yourself.

Quigley: Tina Quigley, General Manager of the Regional Transportation Commission of Southern Nevada.

Sandoval: Thank you very much.

Unidentified Male: And, Governor, I know that it's a timely conversation to have about the DBE program, because you'll be addressing the joint chambers luncheon for Urban Chamber, Latin Chamber and Asian Chamber this Thursday, I believe. So...

Sandoval: Yes. Mm-hmm. It's a sesquicentennial event.

Unidentified Male: Yes.

Sandoval: All right. Any further public comment? We'll move on to Agenda Item No. 3, Review and Approval of the January 13, 2014 Nevada Department of Transportation Board of Director's Meeting Minutes. Have the members had an opportunity to read the minutes and are there any changes?

Skancke: Governor.

Sandoval: Member Skancke.

Skancke: On Page 14, we need to make a correction here. It's one, two, three, four, fifth line down, where it says "I am an engineer." I am not an engineer. So if you would just change that to "I am not an engineer," that would be greatly appreciated. I don't want the engineering group to come after me.

Sandoval: Your appointment's revoked.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Skancke: And who's going to chair the task force?

Sandoval: All right. Any further comments with regard to the minutes?

Krolicki: Governor, yes.

Wallin: Governor?

Sandoval: Madam Controller.

Wallin: This is Kim. It's not a correction, but can they give me an idea of when I'm going to get the information I requested about the accident on Highway 50? That's on Page 22 of the minutes.

Malfabon: We did collect that information, Madam Controller. We'll get that to you.

Wallin: Okay. Thank you.

Krolicki: And, Governor, if I may. And I apologize, because this was a difficult conversation a month ago, so I'm going to have to revisit it. On Pages 43 to 45, please. I thought I was speaking English and apparently I was not. On the middle paragraph under Krolicki, there's a series of adjustments, but "We'll need much more in proceeds," in that third line of my comments. And going down to the drawdown, "making sure that there were no penalties. And if the drawdown is tight," I can go through these specifically. But do you use a machine on this or is this you listening?

Malfabon: Yes. It recorded and then it's transcribed from that recording.

Krolicki: Okay. Because some of this wording is awkward. But we're talking about "the drawdown is tight," so that's on the last Krolicki, a comma after bonds, because they're different thoughts. On Page 44, it says inaudible. "These bond proceeds are available to pay other costs," please. On Page 45, I'm asking a series of questions in that first paragraph. "The ratings will be secured in the next month? We expect AA plus to be supported?" And Ms. Chatwood's response, inaudible should read "AA plus." And the middle Krolicki part here, "You're maintaining the 3.5 times coverage," not "tons coverage," please. And those would be my changes. And I'm sorry to revisit that lovely conversation of a month ago.

Sandoval: Do we have those changes -- do you have them down?

Hoffman: Yes.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: Any further changes to the proposed minutes? If there are none, the Chair will accept a motion for approval of the minutes of January 13, 2014, with the changes suggested by Member Skancke and the Lieutenant Governor.
- Fransway: So moved, Governor.
- Sandoval: Member Fransway has made a motion to approve. Is there a second?
- Krolicki: Second.
- Sandoval: Second by the Lieutenant Governor. Any questions or comments? All in favor say aye.
- Group: Aye.
- Sandoval: The motion passes unanimously. We will move on to Agenda Item No. 4, Contracts, Agreements, and Settlements.
- Malfabon: Thank you, Governor. Assistant Director for Administration Robert Nellis will present this item to the Board.
- Nellis: Thank you, Director. Governor, Members of the Board, there are 26 executed agreements under Attachment A, on Pages 4 through 8, for the Board's information. Does the Board have any questions for the department on any of these items?
- Wallin: Governor, I have a question.
- Sandoval: All right. Madam Controller.
- Wallin: Okay. Item No. 11, it's to Technichrome. It says, "Sale of water rights." So I'm questioning, did we sell it to them? Because we have a payable amount, so I would think it's a receivable. Or did we buy water rights from them? I'm trying to figure that out.
- Terry: For the record, John Terry, Assistant Director for Engineering. And Item No. 11 actually is a similar item as we had on the Transportation Board Agenda, I don't have the date, but I believe it was December, which was the rural water rights that we asked to put up for auction, and this is the actual sale of them. And that, yes, it should be a receivable amount and not a payable amount.
- Wallin: Okay. So DL is \$17,550, then. Correct?
- Terry: Yes.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Wallin: Okay. All right. That's why I was confused, because it said payable. So, okay. All right. Thank you.

Sandoval: Member Savage.

Savage: Thank you, Governor. Mr. Nellis, several of the items have time extensions without dollars. And I know I've mentioned this before. Is there a department policy that requests dollar amount and time extensions are granted? Does it go hand in hand? And I know we talked about this before, Mr. Terry. But does the department have an internal policy when you extend the time, that associated dollars are discussed at that time?

Terry: Not specifically, but certainly we would talk to, in this case, the consultants about whether we can stay within budget within extending the agreement. In other words, yes, it would be an open topic. If we were to add more time, obviously, they would put more dollars into it. In these cases, these are your agreements where the consultants are not near the amount not to exceed. So we will continue to pay without additional money.

I would point out, and I believe three of the big ones that are in here...

Savage: Mm-hmm.

Terry: ...or two of the big ones that are in here are time extensions on our design-build jobs...

Savage: Mm-hmm.

Terry: ...where they assisted us through the whole process. We just didn't set the date out there far enough. We wanted to set the date out far enough, but we need their help to just clear through the closeout of the process. And as you're aware, closing out our construction contracts, and even more complicated, our design-build contracts, takes some time. We're just asking their assistance to move on.

But I guess the answer to your question, yes. If we ask them for extra work as a part of the time extension and they were near the amount not to exceed, we would consider that. In this case, there is money left in the contract and these services are not services that weren't anticipated.

Savage: I think that's important. And I thank you Mr. Terry for your explanation, because the last thing that the department wants to be is held a hostage or in a compromising position, after the fact, without those dollars being disclosed. So I think it's important that everyone openly communicate and those questions are asked at the time of the extensions. Thank you, Mr. Terry.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Terry: And I would just say if they signed the amendment for the time extension without additional dollars, we have no more liability because we have not changed the amount not to exceed.
- Savage: Exactly. Thank you, Mr. Terry. Thank you, Mr. Nellis. And thank you, Governor.
- Sandoval: Mr. Lieutenant Governor.
- Krolicki: Governor, perhaps tracking off of Member Savage's questions, I have no great concern about the individual contracts, but just more of a philosophical approach. Contracts 16, 17, and 26, not only the time, but significant amounts of money. I mean, contracts are going from \$2.9 million to \$8.5 million. And if we're expanding the work of some very qualified companies that are engaged currently, I just think when you're, in some cases, tripling the amount of monies involved, I'm just not sure if it's appropriate for an amendment to an existing contract, or it qualifies to be re-RFP'd.
- Terry: Again, for the record, John Terry, Assistant Director of Engineering. We have discussed this a few times already with this Board that this is the way we did business back then. We put out consultant contracts specifically to start on a Phase 1, with the procurement, with the understanding that we may go to the next phase and go to Phase 2. And that's why these, and there's three of them in here, are agreements that start with a smaller amount and are amended for a much bigger amount.
- They were put out that way intentionally. And we have heard from this Board that they really don't like us doing that except in specific circumstances, and probably moving forward we might procure these a little bit differently. But these were intentionally done that way. We said we're hiring you for Phase 1, but in the RFP we said we may go to these later phases, and we did. And we negotiated those amendments. So, I don't know if I answered your question there.
- Krolicki: You did. Governor, if I may. It's just -- so these contracts are essentially grandfathered in and we will be seeing fewer and fewer of these as we move along?
- Terry: Yes. That's correct.
- Krolicki: And perhaps if, how do you submit, moving forward, when there are different phasings? I mean, because we don't have the ability, nor perhaps a capacity, to look at all the RFPs that go out that produce these little snippets of information. But if we could have a picture of the whole, a totality, as opposed to the snippet, then we know, even if it's a smaller amount, we understand that it's a foot in the door to perhaps a greater amount.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Terry: And I would not say that these types of contracts will completely go away, because oftentimes, early on, we don't know the scope and the fee enough until we do some preliminary work to give an amendment later, once we know that. For instance, do enough preliminary design to properly price the final design. We're going to continue to do these less than we've done in the past.

And I agree with what you said. We need to make this Board aware. Say, moving forward, if we have \$1 million contract, that this could be a setup for a much bigger contract to come and we can inform you of that. But these types of contracts, because they're cost plus fixed fee in a negotiated amount, we're going to continue to do this less because of the direction of the Board. But I don't think they'll go away completely.

Krolicki: Mr. Skancke. I'll take your job, Mr. Chair.

Skancke: So I have a -- I'd like to do -- wow, I've got about seven things I want to say. Sorry. I think it's important for the Board to also understand what is the cost by changing consulting firms midstream. So my understanding is if you have an engineer consulting firm who does the preliminary work, they have a really good understanding of what the project's going to be going forward. So if you then put that contract out to bid, it's probably a 60- to 90-day process. Then you have to do another review. What does that cost the department to do the review? What does it cost the state and the taxpayers to do the review? And then how long does it delay the project going forward? Because if you look at the long-term effect the systemic impacts, financially, would probably be rather substantial.

It causes project delays. It causes construction delays. And so if you can buy materials in today's economy at today's prices and not have to wait until next year to do it, as the economy comes back, cost of goods go up. So I think it's really important -- I'm all for transparency and I'm all for more people getting as much work as possible, but I think it's really important for us to understand what the cost of this is to rebid it and put it back out on the street, when, in fact, a lot of these -- I'm not so certain someone's contract should go from \$3 to \$9 million, but when it's all said and done, I think it's important for us to know what the cost is to delay the project based upon that process.

Sandoval: Agreed.

Krolicki: Governor, thank you. Member Skancke, you know, I absolutely agree with that practical approach. I mean, I support it and I could say a similar thing. My challenge and what this Board's faced, I mean, it's symptomatic. We're often facing contracts that are Phase 2 or 3 or 5, and we never understood that there could be longer implications. So the efficiencies you're -- I mean, absolutely. But just on

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

the front end, we know that something's coming, because it needs to be fair. I mean if somebody gets \$100,000 contract that's really a \$5 million contract, I think there is reason for us to have a greater due diligence and thought. I mean, with all due respect to staff, this needs to be Board approved and driven, not staff driven and approved, essentially, before the Board's even fully engaged and aware. No surprises. That's the theme. Thank you.

Terry: And, Governor, in response, I know that typically the RFP for those technical services contains language that give us the option to go into future phases. But as the Lieutenant Governor noted and other Board members have noted, it's not as clear to the Board when we're entering into these type of technical service contracts that that was the intent, so it could be this much. We have the option of either entering into a contract for a larger scope and just not have as many amendments. That's an option. But the other option is to just keep everybody informed on the Board as to what the initial scope is, what the option of additional scope to be added by amendment, should that be the best course of action and we could discuss that at the Board meetings.

Sandoval: Member Fransway.

Fransway: And on that level of thought, some of these amendments even include extending through a different fiscal year. And so to me it would give us concern as to whether the money is even going to be there if it's not budgeted for in that fiscal year.

Terry: In response, Governor, Board members. That is a good point. We do program the funds for this preliminary engineering effort, but that is also a concern from Federal Highway Administration division office to make those very clear in the programming efforts up front, so that NDOT doesn't come back and say, well we programmed \$1 million, but it's actually \$5 million, or something to that extent. So it's well noted and we are taking action to program as soon as we know that an effort's going to cost more and it's federally eligible we program it ahead of time so that it goes into the federal system.

Sandoval: And then I don't -- this really isn't -- I don't know, it's kind of half question, half comment. But, you know, there are two contracts on here, and I know we're going to talk about this later in the Agenda, but 8 and 9, Las Vegas Valley Water and City of Las Vegas, which we're seeing and they're \$5,400. But, I guess, I'm a little confused as to what interlocal agreements we see and then the millions of dollars of ones that we don't see that are in the back end of our Agenda.

Terry: Governor, I will address that later. But it is typically -- when there's a utility-related issue, we enter into these agreements. And it will be in detail. I'll address

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

the interlocal agreements question. But, you're right, these are smaller cost agreements that are typically for adjusting utility covers that are in the street. And, definitely, it will come up in the later discussion.

Sandoval: Well, and part of my point is that, you know, when -- I guess I went -- when I would go through this Agenda item and I'd see some of these smaller agreements, I would assume that we were seeing everything. And I guess this is -- I don't want to get into this other Agenda item, but I'm shocked at -- and this is only two years worth of agreements, that we have pages and pages and tens of millions of dollars of contracts that we're not seeing and aren't aware of. And then we get \$4,600 or \$6,400 in valve cover replacement. And so I guess that's going to be my point, and I'm really curious to hear from the rest of the Board of their perspective with regard to this. But I was just surprised to see that we get these little guys, but we don't see these other big ones.

So, in any event -- and then a more specific question on 26. I just was looking for a little more detail on what's happening there with that contract.

Terry: Yeah, 26. The other -- again, John Terry, Assistant Director for Engineering. The other two large ones of this type were the design-build where we carried out to a later phase. This one has a lot more history, I believe, and goes back even further, all the way back to 2005, and is a little bit more difficult to explain. In fact, even the limits of the project aren't properly shown in the purpose, although it does say in the description how the project limits were changed.

And what happened in this was -- again, this started as a study. The study progressed. The limits actually changed some. And, for the most part, most of this money in the amendment part of it -- originally, they studied I-580 and 395. And then the big contract that widened US 395 as you're going northbound and they add all the lanes that go towards the airport, was done as the final design of that element. And then they continued on and extended the agreement in this phase simply to close out the as-built process and close out the contract and utilize the consultant for that. So this agreement has been going on since 2005. I don't know if I answered your question, but it was essentially preliminary design with a major amendment to do final design. And now we're just asking for a time extension to go help us close out the contract.

Sandoval: This is out by Stead, isn't it?

Terry: The description says out by Stead, but it was actually modified and it actually was from Moana to I-80, to widen the 580/395.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: So is this bringing in which -- I guess, was there extra money in this contract that you're using on another one? I'm still a little confused as to what's going on here.
- Malfabon: Governor, if I may. What Mr. Terry is saying is that the original limits were changed back in 2007, mid 2000s to include that improvement that was done by the airport, primarily northbound 395/580. So it never did address all the way out to Stead. And the previous administration chose to perform this project in that manner. And we're reporting to the Board that, basically, this is what was done with this contract. It's didn't study all the way out to Stead. We are doing another I-80 corridor study that includes an area in Stead, but that's a separate contract with a different consultant. So, in response, the description does not tie with what was actually the physical limits of the project by the airport.
- Sandoval: I'm completely confused.
- Malfabon: We were, too, when we saw this one.
- Terry: If I could, and again, I wasn't up here at this time. I tried to research what happened. The original contract was more of a traffic study. It was a traffic study of 395/580. The results of that traffic study was the best bang for the buck was to improve I-580 northbound, in the area from Moana to I-80, and that was what was done. And it does say in here and the date, the widening of 395/80 Stead. The project's scope and limits were changing due to a major amendment in about the 2007 time frame. That was then built.
- Most of the money was to go from a traffic study to a full and final design of that stretch of road, including widening bridges, the bridge over the Truckee River and some of the other bridges on that northbound stretch. That project has been done and completed and this extension is just to get additional time so they can help us close out the contracts. That's what I was able to determine.
- Sandoval: For \$5 million?
- Terry: For the final design. Most of the \$5 million was for that final design. I don't know, off the top of my head, what the construction value is at, but it was tens of millions of dollars.
- Sandoval: Okay. I don't want to beat this, but I still am not quite clear as to what happened.
- Terry: Can we perhaps follow up with some more detailed information after we do some research and write it up?
- Sandoval: Yes. Yeah. And I think Member Skancke, you had a comment. Then I'll go to Member Savage. Then I'll go to Lieutenant Governor.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Skancke: It appears that, since this is a project that's a few years old, that in order to move the project forward and get completed, that dollars were shifted from one project to another. That happens all the time across the country. If that's the case, then we should just be made aware that that's the case. I get that. I don't think anyone's trying to get a gotcha question here or try to find a -- it's all about really understanding how dollars move throughout projects. So the cliff notes version is when a project's moving forward oftentimes we reprogram dollars based upon where the project is in the process. That happens all the time in every department across the country. So there's no secret about that. If that's what happened here, that'd be good for us to know.

If we just reprogrammed dollars from one project to another, that's simple. But if we don't have the history, and I think it'd be helpful to the Board to have that history. I understand that these companies need to get paid, but when you've got a budget augmentation of this size, I think it's really important for those of us that have worked in this industry for a long time, we get it. For those of us that don't, I think we need to have a little more information.

So if we have to approve all of these items at one time, if we can hold a couple of these until we get some information, I don't want to hold up the contractors or people that need to get paid, because in this economy people need to get paid. But, at the end of the day, I think we just need to have a better understanding, particularly of projects that were back in 2004 and 2007. You all weren't running the joint at the time. None of us were probably here at the time. And so I think it's just really -- it'd be helpful for us to maybe have that background, whether it's today or going forward. But, as we close these out, if it's just a dollar reprogramming, then we should know what that dollar reprogramming is.

Sandoval: No, and the issue here, at least for me, is this is just an informational item. We don't get to approve or disapprove of this. The action has been taken. And so, again, it's just important for me to have a little bit more on something like this, as Member Skancke says, this could be routine. Probably is. But it's a big amount of money and, you know, again, we don't get to have a say in how this happens because you're telling us what you did.

Terry: Exactly. And, again, the big amount of money was many years ago.

Sandoval: Mm-hmm.

Terry: This is simply a time extension for no money to finish it up. But it did happen in the past.

Sandoval: Okay. Member Savage.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Savage: Thank you, Governor. I'd like to make a suggestion. There might be a venue and an opportunity at the Construction Working Group level, where we have discussed the contractors, the change orders, the closeouts. And I think we can also include the consultants now, in discussions on phases, closeouts, dollars, expectations. I think there's a good venue at that level to inform the Board as well, to make sure we keep our hand on the wheel at that construction work. Thank you, Governor.
- Sandoval: Any other comments? Member Fransway.
- Fransway: Yes, Governor. Thank you. What we're talking about, Line Item 26 again, it seems to me like Amendment 3 increased the authority from \$8.346 million to \$8.945 million. Amendment 4 had no fiscal impact. So wouldn't the actual payable amount be \$8,945,893?
- Terry: We believe you're right. And that doesn't -- the numbers shown and the payable amount should match the amount payable, a few lines down to the right.
- Fransway: Okay. So we're \$400,000 different?
- Terry: Yes, sir.
- Fransway: Okay. Thank you. Thank you, Governor.
- Sandoval: If there are no further questions or comments, we'll move on to Agenda Item No. 5, Condemnation Resolution Number 422.
- Malfabon: Thank you, Governor. This is part of a project that we're doing jointly with the RTC of Washoe County. And it's to acquire property and property rights for the widening and reconstruction of South McCarran Boulevard from Longley Lane to Greg Street in the City of Reno and the City of Sparks. While we're continuing some of the negotiations with the property owners, in some cases they've rejected our initial offer. And to keep the project on schedule, we would request Board approval of condemnation actions for the unresolved acquisitions, so that we can keep the project on schedule.
- Sandoval: No, and I -- it sounds like you've knocked on doors. You've sent letters. You've done -- exhausted all the practical means of trying to communicate with the property owners?
- Malfabon: Yes, Governor. And typically the issue becomes a property owner throws out a number but with no substantiation, and if we're going to get federal reimbursement, we have to have a certain amount of information to substantiate that additional cost that they are requesting, not just a number that they want.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: As I look through these, they're small amounts. I mean, not to minimize the impact to the property owner, but we're talking \$500, \$2,000...
- Malfabon: Yes.
- Sandoval: ...in that range. And then just for my benefit, this is a joint project with us and the RTC?
- Malfabon: The RTC.
- Sandoval: That's why we're doing this?
- Malfabon: Yes.
- Sandoval: Okay. Questions or comments from Board members? Member Fransway.
- Fransway: Thank you, again, Governor. I concur that it -- everything I see indicates that these are minimal amount of dollars for -- \$17,000-plus for five or six properties. And my question is can we handle that with in-house legal staff or -- I don't want to spend a bunch of money outside to acquire \$17,000 worth of property.
- Gallagher: For the record, Dennis Gallagher, Counsel for the Board. Any expenses related to these acquisitions of these temporary easements will be reimbursed from the RTC.
- Fransway: Thank you, Governor.
- Malfabon: And I wanted to mention that many of these are so low cost in value because they're temporary easements. Basically, we're renting their property during the construction phase of the project.
- Sandoval: Okay. If there are no further questions or comments, the Chair will accept a motion for approval of Condemnation Resolution Number 422, as described in Agenda Item 5.
- Martin: So moved.
- Sandoval: Member Martin has moved for approval. Is there a second?
- Savage: Second.
- Sandoval: Second by Member Savage. Any questions or discussion on the motion? All in favor say aye.
- Group: Aye.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: Opposed, no. Motion passes unanimously. We'll move on to Agenda Item No. 6, Public Auction.

Malfabon: Thank you, Governor. Approval is requested from the Board to dispose of property on State Route 160, Blue Diamond Road, east of Jones Boulevard. It's unimproved land consisting of roughly 2.08 acres. So we basically want to dispose of the property through auction.

Sandoval: Board members, any questions or comments with regard to Agenda Item No. 6?

Krolicki: So moved.

Sandoval: Lieutenant Governor has moved for approval of Agenda Item 6. Is there a second?

Skancke: Second.

Sandoval: Second by Member Skancke. Any questions or discussion on the motion? All in favor say aye.

Group: Aye.

Sandoval: Opposed, no. The motion passes unanimously. We'll move on to Agenda Item No. 7, briefing on the State Route 207, Kingsbury Grade, CMAR Project.

Malfabon: Thank you, Governor. Assistant Director for Engineering John Terry will present this item to the Board.

Terry: This presentation is on the Kingsbury Grade pavement reconstruction project and really is about some of the changes that have occurred to this project since this project was before the Board previously. The project, as you may remember from previous discussions, really goes from the summit on Kingsbury Grade from Daggett Pass down to Highway 50, essentially the Lake Tahoe side of Kingsbury Grade. Go ahead.

So June 2013, Transportation approved the use of CMAR and the approval of the preliminary services contract with Q&D Construction to move forward with the project. And then design progressed to final PS&E stage. And in March we requested the Transportation approval (inaudible) the GMP. So we anticipate coming back to this Board in March for the GMP. And part of the intent of this presentation is to update you on the project, but also tell you what is changed, so you're not kind of surprised what we come to you in March for the GMP. Good catch, March of '14.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Next. Some of the new challenges that were identified as we'd proceeded through this -- and I would point out that these are somewhat examples of what we're running into in quite a few of our 3R-type projects. Of course, the pavement design is the main part of our 3R projects. But as we've implemented road safety audits in our projects and are trying to incorporate the safety elements even into our 3R projects, as well as because of the new requirements that we are incorporating ADA into all our 3R projects, as well as the traffic control. So those design challenges have somewhat changed the nature of the project, and that's what we're here to talk about. Proceed.

Natural springs were identified underneath the pavement. So while we had a pavement design at the time of the beginning of the 3R project, we are proposing to modify that design to essentially deal with the springs. The springs have caused, of course, potholes and other issues with the pavement design, and as we've gotten along on the pavement design, we feel we have to deal with them.

There is quite a significant -- if any of you have ever driven it -- issue right at the top of Daggett Pass to Kingsbury. The turn in to Tramway Drive, which is the way into Heavenly, is right there at the top. And, really, that crest curve has no sight distance. And there have been accidents, as well as long queuing in the left-turn pocket, because, frankly, you just hardly dare to make the left turn because you can't see around the corner if there's much traffic up there. So this is right at the top of the pass. Go to the next one.

This is looking as you're coming up from Kingsbury. You just can't see where those cars are waiting to make the left turn up there. So this is one of the issues identified in the road safety audit. Next, please.

The other issue is pedestrian visibility. We have a number of crosswalks up there. It is, of course, quite dark up there at night. And there's no lighting at the crosswalk so it was identified in the road safety audit. Next, please. Another location showing the same thing. Again.

And then the sidewalk issues. We have some small areas where we have to upgrade the sidewalks. And I would say ADA compliance is something that we have to do on our 3R projects moving forward. Next, please.

And the maintenance of traffic, looking at trying to minimize and looking at lots of different ways to minimize the maintenance of traffic. Some of these things, frankly, are just going to cost more money but are the right thing to do. Instead of taking three construction seasons, they're really reducing it to one and a half. But that causes multiple shifts, additional NHP patrol out there, keeping of the lanes

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

open and changes the nature of the project. And I can answer questions to do with that maintenance of traffic. But if you'd go to the next one.

So what are we really saying for all of this? That the initial scope was \$6.6 to \$8 million. Additional costs to address the new concerns, especially the pavement springs issue increased the cost by almost doubling or essentially doubling the cost of the project. So we did not want to come with you with a surprise GMP for your approval next month, which is double what you had approved previously. I would say if this similar thing would have happened in the design-bid-build type of project, we would have internally approved those elements maybe being added to the job and move forward. Given that this was a CMAR job and we essentially selected somebody to do a \$6 to \$7 million job and we're going to come to you to ask that they be approved for a \$14 to \$15 million job, we essentially felt we should come before the Board and update you at the types of things that happened.

And that's it for my presentation. If I could answer any questions.

Martin: I have one.

Sandoval: Member Martin.

Martin: Do we have an ICE itemized breakdown on this doubling of cost?

Terry: Yes, we do. And that will be presented at the GMP meeting in March. Both our -- all three, our engineers estimate, the ICE estimate, as well as the contractor's estimate: it'll be part of our process. Yes, sir.

Martin: I need to get a copy of that ICE estimate before that. You're asking me to take a look at the estimate and do the approval all at the same time, and that would be a little arduous.

Terry: So we will get you that estimate in advance of the Board meeting, yes.

Martin: Okay. Thank you.

Sandoval: It'd probably be good to provide that to all the members.

Wallin: Can you get that to all of us?

Sandoval: Yeah.

Terry: Yes, we will.

Wallin: Great. Thanks.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Krolicki: Mr. Terry, thank you for this. I mean, full disclosure, this literally is outside my driveway. I mean, I'm severely impacted. You know, the Peak litigation continues, I believe. But for two summers, the folks on Kingsbury Grade were terribly inconvenienced for the work. And we get that. Are we redoing what Peak did or have we just found so many deficiencies in their construction or new problems like the spring? Is that what's adding the cost? And let me do another question then I'll be quiet and listen.

So we're looking -- I know you talked about potentially three summers or perhaps working around the clock and shutting down. What are the plans now, so the folks in Stateline area can truly understand the implications here, because if you shut down 207 -- I mean, again, I understand the physical needs to perhaps do so. But rerouting traffic on Highway 50, there are not many options. And people will need to be fully aware of this because commutes and things would be very different, because that traffic coming over the hill is extraordinary. School buses -- our school bus stop is immediately out the door and that will be affected. The ramifications -- I don't envy you -- are severe and broad.

Terry: If I could, and we actually have a one-page graphic I could give you a copy of, and there will be public meetings coming up, I believe, to address these issues. But essentially I've pulled back up this slide that's saying we are going to require some night work and multiple shifts. Of course, we're concerned about the noise impacts of doing that. We are talking about some closures to through traffic using Kingsbury Grade, which we understand is quite a significant detour, but leaving it open for local traffic, with one lane in each direction during the day.

There's concepts in there as well about doing much of these closures before and after the summer season. Essentially before Memorial Day and after Labor Day and details, but keeping traffic open for local access, but there's some closures all the way through and moving into night work, which hadn't been done up there previously. So there are impacts and we're trying to deal with that. And, frankly, we feel that using the CMAR process has sort of helped us working closer with the contractor to try and deal with it, but there's going to be impacts. I don't know if I answered your question. But there will be impacts, but we're trying to do it quicker.

Krolicki: And would access to Heavenly in the winter be considered local traffic?

Terry: We won't be out there constructing during the ski season. So during the winter, we would be in shutdown and the traffic would be back to two lanes.

Krolicki: Okay. It just wasn't clear to me, because I thought you said...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Terry: We're trying to do it in the spring and fall, which are the lower traffic seasons, and stay out of the summer. So we're not talking about working in the winter, we can't up there, but rather working in May and in September to avoid the peak summer season.
- Krolicki: I understand. Okay. Thank you.
- Sandoval: Any other questions? Member Savage.
- Savage: Thank you, Governor. Just a comment. And I want to thank Mr. Terry and staff. I think we're fortunate to have the CMAR delivery method on this project, because it's very transparent with established fees and open audits. And I think that needs to be highlighted to the point where we have a good contractor, we have an open book, transparent method of audit potential, and getting something done that needs to be done in a hurry. Thank you, Governor.
- Martin: Governor.
- Sandoval: Yes, Member Martin.
- Martin: I would agree with Member Savage. This is the perfect application for the CMAR process, I believe. So I agree, it's a great method on a job with this degree of difficulty.
- Sandoval: No, and I appreciate your putting this on the Agenda today so that we're not getting it all at the time of approval, so that's very beneficial and...
- Malfabon: We're learning, Governor.
- Sandoval: No, I -- you got my hint, huh?
- Malfabon: Yes, sir,
- Sandoval: No, this is -- this is really good. So I appreciate your being here. Any questions or comments on the Agenda Item? We'll look forward to seeing this next month. Okay. Thank you. We'll move on to Agenda Item No. 8, the Construction Working Group's Semiannual Report.
- Malfabon: Thank you, Governor. Assistant Director for Operations, Rick Nelson, will present this item.
- Nelson: Good morning, Governor, and Members of the Board. For the record, my name's Rick Nelson. I'm the assistant director of operations. And, first of all, I want to thank the Construction Working Group Members for their commitment to NDOT's construction program and the process that we're going through. The Construction

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Working Group has been a very worthwhile expenditure of time for the staff, and I hope for the Board as well, to be able to go through the construction program and understand the complexities and the issues and provide us feedback with the Board's position.

As you know, the Construction Working Group presents a biannual report of our activities, which is what this is all about. The other piece is a yearly report that we provide the Transportation Board regarding the construction projects that have closed out and the total costs associated with that closeout. So what I'd like to do is briefly touch on some of the highlights from the Construction Working Group for these last six months. And then I'll turn it over to Jeff Shapiro, our chief construction engineer, to report out on all of the construction projects that have closed out within calendar year 2013.

The Construction Working Group, this last six months, has had two regularly scheduled meetings. We did have one meeting that was cancelled for lack of a quorum. Those Agendas for those two meetings are enclosed in your Board materials, Attachment A. We've taken up several topics, which are listed in the Board briefing. And there's just a couple that I'd like to highlight that were fairly significant for us during this last period.

The first one has to do with the Freeway Service Patrol, and I know we had spent a lot of time talking and discussing about the Freeway Service Patrol in the Transportation Board meetings. The Construction Working Group took this up as one of our items at the request of the Transportation Board, specifically to look at the actual costs that the department expended to self-perform that work. I think it was very valuable for us to go through that exercise to determine a true comparative cost between contracting that work out and what it would cost the department to perform that work. I'd also like to mention that our first quarterly report of the Freeway Service Patrol was included in the old business for this meeting as Attachment E.

One of the things that occurred during the evaluation of project closeouts, we discovered that there had been overpayments made on eight contracts over the last five years. The Construction Working Group became involved and investigated this overpayment situation with the department and we spent quite a lot of time digging into each one of these contracts to determine how the overpayment was made and specifically how we're going to recover and how we did recover those overpayments back to the department. We also spent time talking about how we prevent this from happening in the future.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

At the request of the Transportation Board, we took up an investigation of contract change orders; how they're initiated, negotiated and processed. As a result, we modified our reporting procedure to the CWG so that we highlight specific change orders, how they're addressed, why they're necessary, why they're needed and how we're proceeding with that.

The last activity I'd like to mention was a lengthy analysis of the frequency at which we pay our contractors. About a year ago we presented a brief report to the Construction Working Group that looked at our cash flow and the fact that we pay our contractors on a biweekly basis. The NRS actually allows us to pay the contractors on a monthly basis, if we choose, but we've always paid them biweekly. So as a result of this initial report -- well, and the thought was that, if we paid on a monthly schedule we could sort of smooth out the cash flow. So I admit it took us about a year to go through this analysis to see what the impacts to the department might be, what the impacts to the industry might be. Staff prepared a report on this. We got a tremendous amount of public comment from the construction industry regarding the frequency at which we pay. And as a result, we made the decision to continue with biweekly payments, as it would be least disruptive to the industry. We attached that report as Attachment B to this summary.

One of the things we also do is we look at standing Agenda items. We report on a whole series of standing items every month. We created a task list so that as issues come up they stay on somebody's radar that we work our way to a resolution. The current version of that task list is in your materials as Attachment C, just to sort of give you an idea of the kinds of things that we look at, information that's exchanged, and that sort of thing.

Every Construction Working Group meeting also has a standing Agenda item that looks at every active construction project. Every project that's under contract is reported, particularly with respect to schedule and budget. We try to highlight contracts that are having specific issues, either with schedule or budget. We have an opportunity to discuss why that's happening, what remedies we might have. We also look at the status of closing projects out. That's always been a big issue for us, getting projects off the books, so to say. And so we take a lot of energy to report to the Construction Working Group the progress that we're making in closing that out. In addition, we provide a summary, very similar to what you see in -- well, it's not very similar, it is what you see in Attachment D that highlights the specific details associated with every construction project and the total costs associated with them. So we report to the Construction Working Group at every meeting those items and then once a year we roll those up to the full Transportation Board.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Coming up in the next six-month period, the next year, there's a couple of things that we expect to take up in the Construction Working Group. For example, we've been working very hard on the eDocumentation Project for our field crews to expedite and make our documentation of construction projects more proficient. So as we roll out that package, we'll provide briefings to the Board.

We also want to take a look at the contract dispute resolution process from beginning to end. We've had some turnover in staff. We have a new partnering coordinator in the Construction Division, and we want to look at this way that we resolve construction disputes from the very initial identification that there may be an issue all the way through to a successful resolution. And, of course, the idea there is to try to resolve these issues in a timely, expeditious way. And, you know, quite honestly we want to avoid litigation as much as we can. And there are tools and techniques and ways we can do that.

We also wanted to look at various construction management models that we use for our regular design-bid-build projects, as well as our alternately delivered contracts, to make sure that we're being as efficient as we can in that process.

The concludes my report of the Construction Working Group. Member Savage is the Chair of our group. I don't know if he has any comments that he'd like to make.

Savage:

Yes, Mr. Nelson. Governor and fellow Board members, at this time I'd like to personally thank both Controller Wallin and Member Martin, in Las Vegas, for their commitment, dedication and input to the Construction Working Group. It's been an honor and a privilege to chair the group. And I would also like to thank the NDOT administration and staff for their cooperation. It's really been a gelled group, and it's been very informative, very productive. And, I believe, together we're getting better and better, and keeping our hands on the wheel. It's important that we continue the collaborative understanding of the construction departments and the relationships that we have in construction, and we'll also bring in the consultants and review them as well. But I thank you, Governor. And I think people are making a difference each and every time we meet. And I thank the NDOT department.

Sandoval:

No, and I want to echo your statements with regard to the thanks of all the time commitment that goes into this and your leadership on this subcommittee, because it's a lot of work and a lot of time. I mean, I think you probably meet just as long or more than the Board itself. And it's extremely beneficial for me, but I think it's beneficial for the construction industry as well, because there's more of an open line of communication that occurs, so that this Board works better in terms of how we manage projects and such. So it's been extremely valuable -- invaluable to me

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

and I really appreciate everything that you've done and will continue to do. This is important information, Mr. Nelson. Thank you. And I don't know if there's any other questions or comments from Board members on this. Member Martin and Controller Wallin, I also want to personally thank you for your time and efforts as well.

Wallin: Thank you, Governor.

Martin: Thank you, sir.

Nelson: Okay, with that, we'd like to report out on the construction contracts that have been closed in 2013.

Shapiro: Governor, members of the Board, for the record, Jeff Shapiro, Chief Construction Engineer. I, too, would like to echo Mr. Nelson's comments about the Construction Working Group. I really enjoy the conversations we have and we get into some details of how we do business and why we do business and ask a lot of good questions. And I believe everybody's -- we're working together to get everybody on the same page. The level of transparency is going, you know, through the roof. And I firmly believe it's just going to make us be better at what we do. So I really enjoy the conversations and look forward to future meetings.

With that, I would like to give you a brief presentation on the contracts that we closed out last year, 2013, calendar year 2013. These are the basic highlights of the projects we closed out. We closed out 35. The bid value of these contracts was a little over \$259 million. We had change orders of over \$9.8 million. Quantity adjustments; these are basically where we overran plan quantities of \$5.5 million. Amounts paid to contractors to build these 35 contracts was \$274,600,000 and change. And the budgeted amount -- now, the budgeted amount is the programmed amount, which is the amount, on a federal aid job that's literally the amount that we have approved from FHWA to spend on a particular construction project. The budgeted amount for these 35 contracts was \$274,800,000 and some change.

What this slide is telling me, anyways, is our change orders went up a little bit in 2013 over 2012, about two percentage points. Our quantity adjustments went down a little bit from 2012, three percentage points. But overall, from a program perspective, for these three contracts we came in under budget from the programmed amounts. We came in \$200,000 under budget.

Savage: Governor, if I may explain quantity adjustments. NDOT pays on a unit price by unit quantity basis, so we actually measure what's installed, sometimes through the -- by paying exactly what the contractor performs there might be an adjustment, and that's what that is.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Shapiro:

To add to that, Governor, the competitively bid-build unit price item contracts that we do as the Department of Transportation, very common throughout the nation. The contractors literally get paid for the work that they do and we measure it as we go along. So there is some fluctuation when it comes to quantities and whatnot. The next slide.

The next slide show percentages of projects that were under budget and over budget. And I would like to point out to the Board that last month we -- if I don't drop it on the floor -- last month we presented the performance management report to the Board, the percentages for Item 7 for the construction performance budgetwise are not the same ones as you see on the screen here, but there's good reasons for that. The methodology used in this report is different from the methodology on -- to measure these numbers right here. This report measures 70 to 80 contracts, active contracts, throughout the fiscal year, reporting them on a quarterly basis. So those numbers reflect, say a 77 percent budget completion rate. These numbers -- these percentages here only reflect the 35 contracts in question. So the math is a little bit different here. So although it looks like it's 65 percent is not as good as what we did in here, the overall factor here, as I showed on the previous slide, is we brought those 35 projects in under budget. So I just wanted the Board to know that the methodologies are different, which is why you're seeing two different sets of numbers here.

So as the slide shows, we've got 65 percent of our projects were completed on what we call under budget. There were 20 contractors represented within this group of 35 contracts. And there were no settlements on any one of those projects that we closed out.

As far as the closeouts go, and this is a work in progress, we're always trying to do better at the time frames to close our contracts out. Our average duration on the 35 contracts was 19 months. Basically, 18 of those 35 contracts were closed within a year of completion -- construction. So that's about half of the group. Twenty-seven were closed within two years. Some of the other projects that were extended out to 60 months or 72 months -- actually, there's one in there, at the contractor's request, we kept it open until we could close out another project. But some of these had some issues with the major asphalt suppliers going bankrupt or something like that, that we had to address during the closeout phase. So those are -- the items in blue or the lines in blue are the ones we show as contracts we closed out. Now, the ones in red, the graph that's showing red, are the ones that are currently open and that's how aged they've been in the system right now. And we're trying to do our best to close those out as well.

Savage:

Excuse me, Mr. Shapiro.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Shapiro: Yes, sir.

Savage: I'd like you to highlight the fact -- the old average used to be in the mid-30s?

Shapiro: It was something like that. Yes, sir.

Savage: Yes.

Shapiro: Yes. So we are making progress.

Savage: Good progress. Thank you.

Shapiro: But that's a good point, Member Savage. This is a -- there's always opportunities for improvement and this is something we're always trying to do better at. And we've got some bulleted items up here on the screen that hopefully will help. But the goal is to help us speed these closeouts out or up faster. Of course, we have monthly meetings with the districts and teleconferences with the resident engineers trying to work through issues with all the internal divisions to try to get the contracts closed out faster.

Probably the most significant bullet point up there that I believe is really going to change closeouts is the implementation of our electronic documentation system, which we're due to roll that out this season. It's probably going to be closer to June/July time frame. But that's -- we're going to be able to use this field manager system to do all the math checks and do the auditing for us within the system, which is going to help us tremendously over our current paper-based system. And I do expect significant improvement in closeout time frames because of that alone.

Other than that, I really don't have any more for the presentation. I welcome any questions from the Board.

Sandoval: Questions from Board members? Member Skancke.

Skancke: Thank you, Governor. As the new guy here -- so about \$275 million was closed out. What was the average life of those projects? Do we know?

Shapiro: Member Skancke, we've got projects as small as \$300,000 to projects as big as \$20 million. So, you know, the work -- the time frame to construct these varies quite a bit within the system.

Skancke: Okay.

Shapiro: It's really hard to say what the average time frame was.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Skancke: And, you know, I think what's one of the -- an item that's really important for the public to understand is how many jobs related to \$275 million. Oftentimes we make this look really easy. We're just spending fuel tax dollars, federal fuel tax dollars, and they don't translate that. And it's too bad that Cy's not here to write this, so I hope that's his tape recorder. But it's really important to understand that these are thousands and thousands of jobs that are created in our community by our fuel tax. So if there's a way that we can translate that \$275 million into the number of people in the State of Nevada that were employed, that helps the public understand where their money is going. Because these are federal dollars, local dollars. It's money that they pay at the pump, and it would be really helpful for us to know just how many Nevadans benefit from that \$275 million.
- Shapiro: Okay.
- Skancke: So if we could maybe have that at the March meeting, that would be really helpful.
- Shapiro: Okay. We can try to do that, Member Skancke.
- Skancke: Thank you.
- Shapiro: Mm-hmm.
- Sandoval: Other questions or comments? All right. Thank you very much.
- Shapiro: Thank you, sir.
- Sandoval: Agenda Item No. 9, briefing on the Nevada Pacific Parkway project.
- Malfabon: Thank you, Governor. Deputy Director Bill Hoffman will present this item to the Board.
- Hoffman: Good morning, Governor, Transportation Board Members. For the record, Bill Hoffman, Deputy Director. I haven't been up in front of you in a while. It feels good to climb back into the saddle. We'll see how this goes.
- Sandoval: Let's hope you don't get bucked off.
- Hoffman: That's what I'm afraid of. I just need to fall on my feet, right? Okay. So Nevada Pacific Parkway. It's has a long storied history. It's been in the works for probably around 14 or 15 years. And what we'd like to do, as Director Malfabon mentioned earlier, we are learning. We want to be as transparent to the Board and the public as we possibly can. This is a project that's lasted several years. We just want to bring this to the attention of the Board and give you a status update and let you help us walk through the remaining portions of the project. So very quickly what I'll

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

talk about is the project purpose, elements of the project, timeline, give you a project status report, and then we'll go over the next steps.

So, back in the late 1990s, there was a very strong interest both from U.S. Congressional delegation, state elected officials, there was a lot of support for this very project. And as evidence to that, there were state economic development funds that were pledged to this project back in 2005 by the Transportation Board. Not these members, but the Transportation Board did commit economic development funds. And then, also, from the national level there were millions of dollars in earmark or discretionary grant types of funds that were committed to the project.

And then on a local level, from a congestion mitigation standpoint, this project fit very nicely and was part of the City of Fernley master plan. And it was going to improve congestion and help with circulation improvements both from a public and an industrial commercial standpoint.

So just to give you some perspective for those, there were actually some members of this Board, some members that were actually part of this project as it came in and was touched by this Board. However, what I wanted to do is just make sure that everybody had a good idea of what the project's scope was and where it's located. So this is I-80. This is Fernley proper. So this is Interstate 80 and this is actually U.S. 50A, down below. And you can see this is a -- this was a land use development map. It's part of the master planning done by Sonterra, LLC, the developer. You can see the gray shaded areas where, you know, proposed industrial improvements with proposed rail. The red was going to be commercial development. The actual parcels that you see that are numbered are fairly heavy hitters in terms of developers that already own land in that area. There's Walmart, Amazon, Lowe's, UPS, Southwest Gas. So very dense, strong developer proposals -- or future development that was being proposed at this time.

What I've done with the yellow is the circle highlights the interchange that's an element of the project. The line along I-80 and the line along U.S. 50A really mark the connection that the interchange will then provide through Nevada Pacific Parkway, which is this stretch here. So it's obvious to see the circulation development importance of this; but, also, all the traffic that's coming in from Fallon or the east, has to go through this roundabout and in through to access the industrial area or to actually get on Interstate 80. This allows a connector or a bypass around that.

Sandoval: Mr. Hoffman.

Hoffman: Yes.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: Where is the current roundabout?

Hoffman: The current roundabout is right here.

Sandoval: Okay.

Hoffman: Okay, So it just kind of gives the general purpose, what the general layout and what the approach was back in 2005. So, as I mentioned, Phase 1 was going to be a new -- well, is actually an existing new interchange. New four-lane roadway, which was comprised of Phases 2 and 3. There was a new railroad bridge to be built that was part of Phase 3. Connection to U.S. 50A down on the southern end of the project.

This is kind of how it lays out. Just a little different perspective from what I showed you before. So, of course, here's Phase 1 with the interchange. Phase 2 is the existing roadway that's -- the interchange and Phase 2 have been completed. There was already an existing roadway here that I believe the developers did help pay for the piece that was existing. And then right now we're in the design and funding development phase right now. There is a railroad structure that's going to need to be bridged there.

So, as I mentioned, Phase 1 is completed. This is an actual aerial view of the project. So it included a bridge over I-80, and it also included ramps in all four quadrants, and then it also did complete the frontage road piece that connects into the interchange.

And then Phase 2, which is also completed, takes off from this frontage road intersection and extends down to the south. So you're looking to the northeast right now, kind of towards Lovelock. Segment 2, which is in between the two yellow highlighted lines, like I just mentioned, this was the intersection I was pointing to. This is Phase 2. It is completed, two lanes in each direction and ties into the portion of the existing road that fed the development -- that does feed the development.

Then Phase 3, final design, hopeful by mid 2014. And that takes off from the existing roadway and ties it back into U.S. 50A at the south end.

So the project timeline. Late 1990s; this is when the developer and NDOT entered into discussions about the need for an interchange like this. That also brought in the U.S. Congressional delegation, some heavy state support, you know, elected official state support for the project. 2005, as I mentioned before, the Board approved using economic development funds for the project. 2006, the first of two federal approvals were received, so the environmental assessment, the

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

environmental work for the project was completed in 2006. Shortly thereafter, NDOT executed a project agreement with the developer, and that project agreement spelled out funding responsibilities, maintenance, construction, and really of big importance that I think will most likely be asked by a couple of members is the connection between the interchange and the interchange work with that of the four-lane roadway that is off of NDOT right-of-way. Okay. So those are two main points that we'll probably have to dive into more detail later.

And then, 2007, control of access approval was granted by the Transportation Board, and really what control of access is they're openings along the interstate freeway system that allows new interchanges to be put in. That is controlled; you only access at certain locations. But the interesting thing about control of access is it's a property right owned by NDOT. And in this case, the control of access for the interchange project was actually donated to the project in exchange for that four-lane roadway to be built from the interchange to U.S. 50A. And that's highlighted in the original developer NDOT agreement and also the amendment that was drafted.

Speaking of the amendment, the amendment was drafted and executed in 2008. And the amendment really defines the completion of the four-lane roadway segment, and it also highlights the need for relocation of a power line and additional work. So in 2009, as I mentioned, the interchange was completed. It was roughly or very close to \$10.5 million construction cost.

2012, Phase 2 was completed. That was that four-lane northern section.

2014, we're hopeful that the design for Phase 3 of that final phase will be done in 2014. And then the amendment talks about and highlights details of the construction for Phase 3 and sets out a deadline of 2019.

So with that, if I could just talk very briefly about the project financing, and this is representative of the amendment. Okay. So the developer donated land; Sonterra donated 21 acres that was needed for the interchange and then also for the four-lane roadway. So they were donating those acres. The developer paid for the design costs at \$1.25 million. What I have here, underlined, are the construction funding sources for the interchange project. Okay. And really the biggest changes between the agreement and the amendment, state gas tax was substituted in for state economic development funds. I don't know why. There might have been a deadline where the project wasn't advertised on time. I'm not sure, so...

Sandoval:

Mr. Lieutenant Governor.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Krolicki: I hate to interrupt the flow, but could you describe those economic development funds?

Hoffman: Well, and I...

Krolicki: The commission, I'm not aware, had that kind of substantial ability.

Hoffman: Okay. Well, and I should mention that through my detective efforts, I've done my very best to try to research this. I really didn't have a whole lot of background on this project before. So I've done a lot of reading, a lot of detective work and tried to pull as much information together to make as accurate a presentation as I possibly can. The only documentation I knew of or read mentioned that in an October 2005 Transportation Board meeting it was approved in the amount of \$4.8 million by the Transportation Board to use economic development funds for this very project. That's all the information I have right now. I'd be happy to try to dig into that a little bit further.

Krolicki: Bill, you said, "used state economic development funds," but it says state gas tax funds. Could you...

Hoffman: No, this was...

Krolicki: You said Board approved use of state economic development funds.

Hoffman: The Board did. It was a Board Agenda item in 2005. What I'm showing right here, specifically, those funding sources that are underlined were changed. There were some changes made and reflected in the amendment. The agreement actually showed a funding source of economic development funds -- the original agreement. So what I'm trying to do is just highlight the changes between the agreement and the amendment. I can -- I would...

Krolicki: No, I understand you're the messenger.

Hoffman: Right.

Krolicki: The confusion is what were those economic development funds? Because that amount of money is probably larger than the entire budget...

Hoffman: Oh, okay.

Krolicki: ...of the department at the time.

Hoffman: Right.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Krolicki: And then having the Nevada -- the Department of Transportation having the say as to how those -- the Board having a say as to how those monies were approved and spent.

Hoffman: Right. Well, very valid questions. I'm reading directly out of the original agreement that says, "\$4.8 million in state economic development funds and the construction engineering costs to be paid by the department were approved by the Transportation Board at its October 12, 2005 meeting." And really I would love to dive into the details. There's still a lot of work I need to do in researching this project and trying to complete it, really, is my main goal at this point, so...

Krolicki: Well, I'm sure there are more questions.

Hoffman: Sure. Yep. I will speed through this.

Krolicki: You have more presentation. No, no need to speed.

Hoffman: Yeah. Yeah.

Krolicki: Just I don't want to get going on a line of questioning before you're finished.

Hoffman: Sure. Sure. Absolutely. So I just wanted -- this is -- state gas tax was substituted in. This is -- the underlying funding sources are the amended -- are amended. There was no change, or minor changes, maybe \$100,000 or \$200,000 to the federal earmarks. And the federal highway fund's interstate maintenance discretionary funds were pledged. The developer funds went from about \$1.7 million to \$.94 million. But that power line relocation that I talked about, which was additional work that was included in the amendment, was to be picked up by the developer at roughly \$400,000.

So, project status report. Phases 1 and 2 have been completed. Phase 3, hopefully the design can be completed by fall of 2014. Phase 3 construction costs: approximately \$10 million to finish the four-lane, approximately one mile roadway segment that connects the southern portion to U.S. 50A. There is a railroad bridge that needs to be built, power line relocation that I talked about, and then all the municipal utilities from the City of Fernley that need to be run out to the development.

So, with that, the next steps, really, we want to be transparent. We want to do the very best that we can as a department. And we understand that there were decisions made by past NDOT staff. Well, that's, you know, fine and good. We own this. That's the front office and NDOT staff, we own this situation. So it's our job to try to complete the project, work with the developer, do the very best that we

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

can as effectively and efficiently as we possibly can. So that's the major goal is to try to get the project completed.

Another thing, we're just going to take the initiative ourselves. We're just going to -- from now on, with agreements and amendments like this, we're just going to bring them straight to you. We're just going to be open and transparent. The agreements and amendments did not come before the Transportation Board up until -- you know, it changed in July of 2011. That's when -- and it's quite an undertaking. I know it may not seem like that from up there. You guys seem to -- we seemed to catch you off-guard. But there's a ton of tracking and internal categorizing and there's a lot of work that goes in to sticking the agreements in the exact, right category and making sure it gets spit out on the other end. We can do better and we will do better. I promise that. We're just going to take the initiative. Developer agreements similar to this will come to you, no questions asked.

And, what we would like to do today is seek any policy or project recommendations moving forward. I did invite Joe and Patty Wade and I would what I'd like to do is just defer just a couple of minutes of my time to Patty Wade, if that's okay, Governor?

Sandoval: Yeah, and before you do so, I think there will probably be some questions. I'm a little unclear as to what the consideration was for the access points, because the value was over \$4 million; is that correct?

Hoffman: Yes, Governor. For the record, Bill Hoffman. The way I understand control of access and those openings as a property right, it depends -- they're appraised based on the increased value of adjacent properties. And that was -- that was valued at \$5.76 million.

Sandoval: Okay. Mm-hmm. And what did we get for giving that up?

Hoffman: Well, it would be completing that four-lane roadway. The two segments, Phase 2 and Phase 3, the new four-lane roadway. That's what we essentially exchanged that for. The value of that...

Malfabon: Governor, if I may, I think that the -- what we got was the Board, at that time, supported the economic development that would occur as part of the construction of the interchange. It would open up access to those properties. And the Board, at that time, was seeing that it would develop and get additional tax revenue for the state as a benefit. I think that the Board voted to make that, basically, the state's contribution to the project as well; is that correct, Bill?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Hoffman: That is correct. But it is stated in the documents that I've read, either that came before the Board in 2007, that approved the control of access, or in the original or amended agreement, it states that that was pretty much the deal. The disposal of those control of access rights were in exchange for the new roadway -- the developer completing the new roadway.
- Malfabon: So, in conclusion, Governor, and in response, it was the creation of jobs that was anticipated and the additional tax revenue to the state would basically be a benefit to the state. So it was a contribution voted on by the Board to basically contribute that equivalent amount for the -- not make the developer pay for that change in control of access -- that value.
- Sandoval: So then I guess the bottom line is unfortunately the economy didn't go well.
- Hoffman: Right.
- Sandoval: So that part never happened.
- Hoffman: And that's right. And I believe, Governor, that's the reason why we see a 2019 completion date in the amendment. In the original agreement it says that NDOT and the developer will work out the deadline and the mechanism for delivering the new four-lane roadway. It wasn't defined in the original agreement. I think the economy dipped. Revenues probably weren't what was originally expected, and they had to push off the completion date until 2019. And -- but I'm speaking on behalf of the Wades, so...
- Sandoval: Yeah. And we'll hear that piece.
- Hoffman: Yeah.
- Sandoval: The other question I had is what was the cost of the construction of the interchange project?
- Hoffman: It was originally estimated at \$14.5 million. The bid came in -- again, that was economic downturn. That was actually about \$10.5 million -- just a little over \$10.5 million to construct the interchange.
- Sandoval: And then what happened to the spread there?
- Hoffman: The spread, \$2.8 million of that -- so you could look at that as a \$4.5 or \$4 million dollar savings. It was decided by the Governor at the time, the Director at the time, in agreement with the Wades, that \$2.8 million of that \$4 million would be rolled into the next phase for the four-lane connector roadway.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Sandoval: Isn't that what we just traded for the access though?
- Hoffman: We did. And I'll just do a little math. So the Phase 3 work was worth about \$10 million at the time, that southern portion. I'm assuming -- I haven't seen any cost data, final cost. I'm assuming \$3 million to \$3.5 million maybe for the upper section. I'm not sure. But, if you -- about \$3 million, that's what I figured. So \$13 million to complete the roadway, the four-lane connector roadway and \$5.76 million was the value of the right-of-way control of access. So there's still a decent spread there between the value of the roadway that was developer's responsibility, and then the control of access, which was \$5.76 million.
- Sandoval: But we don't -- I mean, this is the first time I've ever heard of this...
- Hoffman: Right.
- Sandoval: ...using money from the so-called savings between the engineers estimate and the amount of the project.
- Hoffman: Yeah. Honestly, it depends on how the project and the contract is usually put together. How it's structured. Sometimes we have, in the past, rolled forward some savings for a portion of an additional phase or something like that.
- Sandoval: Mm-hmm.
- Hoffman: So it's not standard. But -- it's not generally standard, you're correct, Governor.
- Sandoval: Mm-hmm. Could that -- I mean, I was just chatting with the Lieutenant Governor, is that the economic development money?
- Hoffman: As far as I can tell, there was never state economic development money.
- Sandoval: Well, we just said there was though.
- Hoffman: Well, there was originally. In the original agreement, the funding did specify \$4.8 million of state economic development funds. In the amendment that was executed two years later, it had taken out the state economic development funds and plugged in state gas tax funds.
- Sandoval: Okay. And all I'm trying to do is understand the deal here.
- Hoffman: Yeah. Right.
- Sandoval: And perhaps the Wades can help with that.
- Hoffman: Right.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: But there was the -- part of the consideration on the state's part was the \$4.5 or \$5 point something million for the control of access.

Hoffman: Right.

Sandoval: There was the so-called economic development funds that have turned into fuel tax.

Hoffman: Right.

Sandoval: And then there's this \$2 point something million on the spread...

Hoffman: Right.

Sandoval: ...on the difference between the engineers estimate and the amount of the actual construction costs.

Hoffman: Right. Right. So, yes, everything you've said is accurate to my knowledge.

Sandoval: Okay.

Hoffman: And that's all the research I've done. But that's correct, Governor.

Sandoval: I think Member Fransway is the only person who was on the Board at the time.

Fransway: No, Governor, I'm not.

Hoffman: Actually, it was Member Fransway, it was the Controller, and it was Member Martin...

Fransway: Member Martin.

Hoffman: ...and the Lieutenant Governor.

Fransway: If I may, Governor.

Sandoval: Mm-hmm.

Fransway: I have to disclose that I have been working with staff. I have been very concerned about the procedure that has been in effect over the past several years. And I remember very vividly, this issue coming to the Board and the approval of the disposal of access for \$5.7 million revolved around the benefit to the public to connect to Highway 50. There was lengthy dialogue and it finally was agreed to that the original agreement is what prompted the Board to approve the disposal of the control of access. And being a Board member from District 3, I had the opportunity to drive through there a lot and even fly over it, and I noticed that there had been very little work over time.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

And so I looked into it. And, frankly, I am disappointed that the amendment -- or the agreement, one, is not in our packet, nor is the amendment in the packet. And, Governor, I'm here to tell you that this Board member sees the amendment not as an amendment, but as a total different agreement, which changes the responsibility of the developer and the responsibility of the department in a major fashion. And, when we're all done here, I would hope that in maybe the next meeting that we do have the opportunity to have all of that information before us, including the minutes of the September 20th meeting in 2008, when this came to the Board originally for disposal of the control of access.

I was here, Lieutenant Governor was here, Member Martin was here. The governor at the time chose to not vote on the action based on a possible conflict of interest, along with one other member at the time. And so the agreement bothers me, in that we had the Chairman of the Board, at the time, basically signed on to the amendment when he was not a voting participant in the original act. And I see -- I've got both amendments right here, and I'm not an attorney, but I can read. And it seems to me like the department is going to take a major financial responsibility as a result of the amendment that we did not vote on. Had that been there, I can tell you this member would have been opposed in the first place.

Malfabon: Governor, we're going to provide the original agreement and the amendment and the minutes to the Board with -- providing it to the public as part of the Board information item next month so we can continue the discussion. But we wanted to provide it to the Board today so that you can start reading through those materials.

Sandoval: Other questions from Board members? Member Skancke.

Skancke: Thank you, Governor. I realize this is informational, but just wanted to get some background. So the developer dedicated some land. Do we know what the value of that land is?

Hoffman: You know, I don't, Member Skancke.

Skancke: Okay.

Hoffman: We might be able to get that answered when the Wades come up.

Skancke: Okay. And then the railroad bridge is that needed as part of the project?

Hoffman: Yes, it is.

Skancke: I'm not really that familiar with the project.

Hoffman: Right.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Skanske: And then are we paying for that or is Union Pacific participating or what's the partnership on that?

Hoffman: Well, Union Pacific Railroad would have full approval authority of the geometrics and design criteria, all of that, for the bridge itself. That was part of the four-lane roadway piece that was exchanged for the control of access. That was just part of the Phase 3 work that roughly will cost approximately \$10 million. So that's on the developer, so to speak. And they have worked with the railroad very closely and are very, very close, if not finished with that portion of the design work.

Skanske: So is that an NDOT expense or is that a UP expense? Who's paying for the bridge?

Hoffman: The developer is.

Skanske: Okay. Thank you.

Hoffman: Mm-hmm.

Skanske: Thank you, Governor.

Sandoval: Okay. And just a question.

Hoffman: Sure.

Sandoval: I know there's a typo in the memo to us...

Hoffman: Yeah, sorry about that.

Sandoval: ...in the first paragraph of the second page, it says, "The amendment to the original contract, which was executed by the Director on August 20, 2019." What's the correct year for that?

Hoffman: The correct date, Governor, is August 20, 2008. Sorry about that.

Sandoval: That's okay.

Hoffman: Probably need a "d" after negotiate earlier on in that sentence too.

Sandoval: All right. And then the reason we didn't get this sooner is it was categorized as the infamous interlocal agreement?

Hoffman: Yes. And we apologize about that.

Sandoval: Mm-hmm.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Hoffman: We're going through with a fine-tooth comb. We're trying to find those last straggling agreements that haven't been properly categorized to try to get those to you that involve state gas tax funds or those that we think you'd be interested in seeing. And, yes, this didn't fit a neat, nice category before, but, this would have been one, Member Fransway, that wouldn't have come before the Board anyway. Although, based on the 2007 control of access approval, probably should have. So I agree with you. Not probably, it should have come before you, so...
- Sandoval: Yes, I agree with you.
- Fransway: And I believe that it would have been discussed and it would be in the minutes that we -- I don't know if anybody's driven over that road. But that Phase 2 is in dire need of help. I can't see how there were any state oversight on the way that was installed. And the amendment, the way I read it, states -- no longer gives that as a requirement that that road be brought to state and federal standards. And if we're going to -- if that road is going to go from Highway 50 to the Interstate, I would imagine that at some point in time, the state's going to have to accept that road as part of their system. And there's absolutely no possible way that we can accept that road in the shape that it's in right now.
- Hoffman: Well, if I could, Governor? Member Fransway...
- Malfabon: Bill, could I first address that? Governor and Board members, I don't feel that there's an obligation of the state to take over that road and we wouldn't want to take over that road. There's other examples where earmarks from Congress come to a project, for instance, the Laughlin Bridge over the Colorado River. The county, Clark County is the proponent of the project. They still have to build a road to the state highway, State Route 163, or Needles Highway, and that is not a road that we would take over, either, in that case. So they can receive federal funds, but it doesn't obligate the state to take over this new road that's built.
- Sandoval: That's part of what I'm understanding, though, but that was part of the deal. Was it not?
- Hoffman: Well, part of the deal and a piece that...
- Sandoval: Mm-hmm.
- Hoffman: ...probably isn't obvious, is Lyon County and City of Fernley are part and privy to this, as well, through the developer. And unless I'm wrong, I believe that they have agreed, the City of Fernley has agreed to maintain Nevada Pacific Parkway outside of our right-of-way limits.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: Okay. And I guess to try and put this all in perspective...

Hoffman: Mm-hmm.

Sandoval: ...and we will hear from the Wades...

Hoffman: Mm-hmm.

Sandoval: ...and that's exactly what we're trying to get here is the die is cast.

Hoffman: Right. Correct. Right.

Sandoval: I mean, it's done.

Hoffman: Right.

Sandoval: But I think it's important for this Board to know exactly what that die is.

Hoffman: Yes, sir.

Sandoval: And what we gave and what we got and what's not built and what's built and who's responsible for what, so that, moving forward, if there is a decision point for this Board, that we know exactly what the history was. Because, like you said, there's just -- I don't understand what the economic development funds were. I don't understand the spread on the savings between the engineers estimate and the actual cost.

Hoffman: Mm-hmm.

Sandoval: I don't understand what we got in exchange for the access points. All of that is still unclear to me. So as the Director said, we'll have another Agenda item, what is going to happen now, between now and 2019, because this agreement's been extended out to there, and what the expectations of the parties are.

Hoffman: Right. Right.

Sandoval: Yeah.

Fransway: Well, that's why I just -- I don't see how a die can be cast when this amendment is totally different than what we voted on. Somehow, I think that there's a -- certainly a transparency issue, definitely, and maybe an ethical one. When the Chairman of the Board at that time excluded himself from voting based on a conflict, and then signs on or gives his blessing to the amendment, it just doesn't make any sense to me.

Sandoval: Well, we'll leave that...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Fransway: Okay.

Sandoval: ...piece alone for today. It's just that I think what's important for today's purposes is understanding the history that we have here so we know exactly what that is. And so I don't know if there's any more questions for Mr. Hoffman. Member Martin, I don't know if you had any questions or comments that you'd like to make.

Martin: No, sir. Not right now. Most of the stuff that Member Fransway brought up, I do remember, about the point of access but the details are really foggy. Too much water under the bridge for an old guy. But I do have every single Board meeting Agenda and packet since I've been here. And it's my intent to look it up. Now I got two dates: September 20th or August 20, 2008. But I don't know which one's correct.

Fransway: September 20, 2008 was -- Member Martin, if I may, was when we, the Board, took action to dispose of the controls of access.

Martin: Thank you, sir. And I do remember that action. And I do remember your comments, the other member at-large from up there, and I remember that the Chairman excluded himself. Beyond that I just don't recall the finite details of the deal.

Malfabon: There was a correction, Governor. It was September of '07.

Hoffman: I believe, that's what Member Fransway (inaudible)...

Malfabon: And the other thing I wanted to mention, as we provide the agreements, the amendment and the minutes, back at that time, the minutes were not under the same process we use now, where they're recorded and then transcribed verbatim. So what we did with the minutes was listen to the tape, the audio tape that we still had, and then transcribed from there. So was a different process back then on how we took minutes, but we did have a recorded copy of the minutes.

Fransway: So it's a verbatim...

Malfabon: Yes.

Fransway: ...(inaudible) we provide them.

Malfabon: Yes.

Fransway: Okay.

Sandoval: All right. Thank you, Mr. Hoffman. Ms. Wade.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Wallin: Governor?

Sandoval: Yes, Madam Controller.

Wallin: I'm going to have -- and I was at that meeting as well and I kind of remember it the same way that Member Martin remembered it. And I'm going to have to go back and look through my notes from back then as well. But I remember that it was -- as Member Fransway talked about it, there was a lot of concern there when we did this. So I'll have to look (inaudible), so -- but I do have to go. I have to go to my next meeting. And I just want to go and say, after looking through those interlocal agreements, I think we should be approving those, if you guys, you know want to bring it up at the next meeting to put it on for approval. Because I know it's just informational right now.

Sandoval: We'll have that discussion, but it could be one of those be careful what you wish for.

Wallin: I know. But like you said, there's a lot of money there, and I think that there's too many times where they can just say it's an interlocal agreement, so it doesn't have to go to the Board. And then it's like, oops, this shouldn't have been an interlocal. So if we don't have the exceptions, then we won't miss stuff.

Sandoval: All right.

Wallin: That's my thought.

Sandoval: All right. Thank you, Madam Controller.

Wallin: All right. Thank you. Bye.

Sandoval: Good morning, Ms. Wade.

Wade: Good morning, Governor and members of the Board. Thanks for giving us a chance to try to shed some light on this. I think it's important for everyone to understand that this was always -- we started looking at this -- in fact, I remember being in Governor Guinn's office on September 11, 2001. I just remember that day very well because of -- as we all do. But I do remember that we had a meeting scheduled and I went to the meeting and he was still there. So we had the meeting. So that's what sparks it.

A lot has happened. But I think it's really important for everyone to understand that this has always been seen as a regional, much needed improvement. This was not solely for the developer and for the value that the developer gets from this. The roundabout has had a lot of problems in Fernley. I think if the Fernley folks were

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

here to tell you about that, and I think some of the folks from NDOT would confirm that, that there needs to be another access point. There really needs to be a connector from Highway 50 to 80 for a whole variety of reasons. I won't go into that, you know, today, but we can certainly talk about that.

But this has always been viewed as a regional improvement that was needed for the overall area. It's also been viewed as a public-private partnership, and there's a lot of precedent that went on over the last 14 years or so that really exhibits that. But I think it's -- I think, there's -- I always understand, you know, when you have different Board members and things change that things certainly, you know, you went back to what your predecessor did and you would have done it differently. However, there were a lot of circumstances that went on during that period.

So I think it's important to understand that, in going into this and looking at it, that it wasn't seen as a direct tit for a tat type of thing where we give you this and Mr. Developer, you give us this. There's a third component, which is that it was seen as a regional, much needed top priority for the City of Fernley and surrounding areas, and Fallon as well; folks coming in and making that commute. Quite a few people do that to Reno. And so it was viewed that way. And I think that's how a lot of this agreement came together.

I started lobbying for dollars at the federal level back in -- gosh, I guess it was '99. You lose track of time, especially as you get my age. But I think, you know, it was '99 or 2000, and spent a lot of years in D.C. before we actually got the federal funding. Spent a lot of years dealing with the folks at NDOT, the Fernley folks, and certainly the governor, then Governor Guinn and a lot of his folks. So there was a lot that went into this and I just think it's important that everybody understand the history and how we came to this point. That it wasn't strictly a developer coming in and saying we want money. It was -- everybody got involved in that.

We put -- Sonterra Development, our development company for the Fernley properties, put in well over \$2 million into the design. We also dedicated the right-of-way; I'm sorry I don't recall exactly what that value was, but I will tell you that we had sales for some of our commercial property at about \$7 a foot, and there's 21 acres. It wouldn't all be there, you know, at that level, but it was, you know, it's a substantial amount of contribution that we gave as well.

So I don't remember all of the history perfectly. I'll have to go back and, you know, brush up on that a little bit before the next meeting. But I kind of tend to agree with the Governor, the things that happened at that point in the negotiations were in good faith. And they -- everything's been relied on about that and to

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

change it now would be pretty difficult. The other think that I think is really important, and I know we all appreciate it; the economy took an absolute nosedive, and there were no sales coming in. And it was contemplated that part of -- at least a portion of the dollars that would be spent on making those connections would come from continued sales proceeds. Well, if there aren't any sales proceeds and there aren't folks that are coming to locate there, it's pretty tough, you know, to make a project of this size, i.e., the third phase to come out of pocket. There just was no pocket to go into, because there were no dollars coming out.

I did want to talk a minute about that savings -- the cost savings. The original estimate, in boom time -- it's interesting how that can change when things are kind of bust -- but the original estimate for the interchange project Phase 1 was \$14.5 million, and we ended up getting in at \$10.5. And the \$2.7, basically, I think, Bill, you said \$2.8, but I think it was \$2.7, and then we covered the rest.

Hoffman: Mm-hmm.

Wade: The cost was \$2.8 and some change to get that Phase 2 road completed. And that was -- there was a lot of discussions that went on at that time with the NDOT folks and also federal -- especially the federal folks, Senator Reid and the delegation -- about that savings and whether or not that could be utilized to go through and continue that much needed connection. And it was decided, ultimately, that yes it could go toward that, and that's what happened on those dollars.

But, again, I think it's really important to also reflect the truth, which is we got the savings partially because of the economy, but also because of effective project management and because of the efficiency. And it was finished four and a half months early, ahead of schedule. I mean, it was finished in -- it was nine months, and we were supposed to go about 14 -- 13 or 14 months. So that was done very well with all the players. And there were a lot of efficiencies. There was only one change order of any substance, and that was only \$25,000 out of the whole project. And that was for safety reasons, because the road was not -- originally it was contemplated that the road would be available at the same time that the interchange was completed but for reasons discussed, that didn't happen; primarily economic conditions, sales, and everything reflective of that.

But I do want to say that this has been a very positive project in an awful lot of ways. Fernley's getting ready to be ramped up again. It's been completely stagnant, as has, you know, an awful lot of development around the country and certainly across the state. And there was a \$500,000 earmark -- we don't call them earmarks anymore, but that's what it was at the time -- that we learned about three or four years ago, that was set aside to complete the design. We're about 75

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

percent done with the design for the Phase 3. We'd like to have it shovel ready, particularly because of where we are now with the economy picking up and projects really, you know, we've had a lot of activity recently, and we want to be ready, you know, to get those big ones and have it done.

So we're working closely with NDOT. We're also working with Senator Reid's office to "A," try to identify that \$500,000 so that we can complete the design and get that done on a schedule very similar to what Bill was describing. And then looking at some other possibilities and looking at continuing with this public-private partnership, whereby we certainly participate, but also that, you know, the federal folks have reflected to us that they really want to see this done. They want it completed. They want that regional improvement. The precedent has been set and we want to continue on with the final phase. So we're exploring those options and that's kind of where we sit today.

One other thing, Governor, that I didn't cover and, again, this was all internal, how this happened. It didn't have anything to do with the developer. But on those \$4.5, originally, that came from the state -- originally, what happened was we got federal funds, but the federal funds were dependent upon getting state funds as well. They said you guys are going to have to come up with some matching dollars to get that, and that's pretty ordinary. I mean, that's a pretty typical thing to happen.

And so, at the time, and again, Governor Guinn was the one who was really kind of spearheading this, what he said was, you know, we can use some economic development funds. I don't know the source of what was contemplated, but that's what we were looking at for those matching dollars, so that we could indeed get the \$7 million from the feds, because they wouldn't release it until we had matching funds -- not dollar for dollar, but it was kind of dollar for dollar if you took the state funds and then what we put in, in terms of land and design. It was just almost dollar for dollar that got us to the \$14, and so he came up with that.

Then somewhere along the line, as I recall, there was a reason and it had to do with timing use of the funds or something like that, but they'd already committed to doing it, and so they went through gas tax, because it was a regional improvement, and that's where the gas tax money came from. So it had to do with, I think, the economic fund that he was going to go into. It wasn't like the economic development fund that we think of as like \$10 million or whatever it is for the whole state. It was some other dollars that they had and I don't recall exactly. Probably could go through and try to find that for you, if you wanted it. But that's what happened. So that's the explanation on that, is that there were matching funds, regional improvement, everybody plays, public-private partnership.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

And then the other thing that wasn't answered, I believe, is -- or I don't know if it was answered adequately, but the city did build that extension for Phase 2. And the city is responsible for keeping that maintained to the correct standards.

And, Mr. Fransway, if I may, I just wanted to ask you about the road. I'm not sure which portion of the road you're speaking of, but the new road is in pretty good condition.

Fransway: Thank you. And with all due respect, Ms. Wade, there's cracks in that road that are...

Wade: Now, are you talking about Nevada Pacific Parkway or are you talking about East Newlands? Because East Newlands does need some maintenance. But Nevada Pacific Parkway, the north to south connector road is in pretty good condition.

Fransway: The original one. It's the Phase B or 2 that I'm talking about.

Wade: Okay. Oh, you know what, let's -- we'll talk -- can we talk about that so that we don't take everybody's time.

Sandoval: Yeah, let's not have a conversation here, but then...

Wade: Let's do that. I'm sorry. I just wanted to address your question. And I'd be happy to sit down and have our project people sit down. I think that's about it.

I did want to mention that I did speak last week with Bob Herbert of Senator Reid's office and he -- and then we had a great meeting with the NDOT folks, Rudy and his team. And we're all looking toward, you know, identifying those design dollars that were actually set aside so we can finish the design and then also looking at, you know, other possibilities.

And that's kind of where we are. I'd like to say that overall I think it's been a really good project. I think, when it's finished, there's been a lot of cooperation. NDOT's been great, the federal government, state, everybody has been great, the City of Fernley. And we just want to continue that, get done with the third phase and really get going on this, so...

Sandoval: Any questions? Thank you very much, Ms. Wade.

Wade: Thank you very much.

Sandoval: All right. Board members, before we leave this Agenda Item, last opportunity for questions or comments. We'll move on to...

Fransway: Governor.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: Oh. Member Fransway.

Fransway: So will this be continued until the next meeting then?

Sandoval: Yeah. Mr. Hoffman.

Fransway: Okay.

Hoffman: Governor, if I may. Yes, Bill Hoffman, for the record. If we could come back in April, that would give us enough time to dig in a little bit deeper and try to get really good answers for the Board. That would give us enough time to come back and present. So if I could recommend April.

Sandoval: I have no objection to this going on the April Agenda, so we can have a fully informed Agenda Item. Member Skancke.

Skancke: Thank you, Governor. Bill, if you could maybe, in the process, find out if that federal money is 90/10, 80/20 money and what that formula might have been of how we got to that match? Don't want any surprises in the federal process as we move down the road, so to speak, on this project.

Hoffman: Sure.

Skancke: That'd be helpful for me. It doesn't have to come to the Board. If you want to just give it to me, that'd be really helpful.

Hoffman: Very well.

Skancke: Thank you.

Hoffman: Thank you, Mr. Skancke.

Sandoval: We'll move on to Agenda Item No. 10, Quarterly Briefing on Interstate 11 and the Intermountain West Corridor Study.

Malfabon: Thank you, Governor and Board members. This will be presented to the Board by Sondra Rosenberg, our project manager for this study.

Sandoval: Welcome back.

Rosenberg: Thank you. Good to be back. Good morning, members of the Board. It's still morning, barely made it. For the record, my name is Sondra Rosenberg, Federal Programs Manager for the Nevada Department of Transportation and the NDOT project manager for the I-11 and Intermountain West Corridor study.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

This Board has asked me to come back at times when there's decisions being made or recommendations being made, so I felt that it was a good time, as we're kind of rounding the corner towards our final recommendations for this study. This is our schedule for the project or the study. And we're about three quarters of the way through a two-year study. But we're kind of wrapping up our recommendations for the alternatives analysis.

Just a refresher. I've shown you this before. But this is our evaluation process. Each step along the way we've met with our stakeholder partners to develop the evaluation criteria, the universe of alternatives. And then we did our level one screening, which was primarily qualitative, went back to the stakeholders, made some adjustments. And now we've completed our level two screening on the Congressionally designated area, which is Phoenix to Las Vegas. And we have some recommendations from that screening. We just wrapped up a series of stakeholder meetings with those results. And we'll begin a public outreach effort this week. We'll be putting on our website some recorded presentations, as well as a survey instrument, to get input from the public.

So just, again, a refresher. These were our level one recommendations for the entire corridor from the Mexico-Arizona border, through Phoenix, Las Vegas, and up through Northern Nevada as well. And you can see the Las Vegas region. We had -- at the end of level one, we had five alternatives. One was removed because it doesn't connect to the Northern Nevada recommendation. And then two of them were sort of morphed together; they were combined to avoid certain sensitive areas, particularly Nellis Air Force Base area and areas of concern.

So these are our three alternative that were evaluated for the level two analysis. Alternative Y loosely follows the 215 beltway around the western side of the valley to U.S. 95 to connect to the Northern Nevada segment. Alternative Z follows the 93/I-5/15 alignment and then 95 North out north of the Spaghetti Bowl. And then this new combined alternative, which would be a brand-new corridor along the eastern part of the valley and then connecting to the northern beltway to then connect to 95 North.

These are our -- we're calling them our draft analysis pending input from our stakeholder partners, as well as the public. And you can see here, basically, green is good, red is bad. We looked at -- we do have some quantitative data that backs this up, but really at this long-range planning level it made more sense to look at them sort of comparatively across for each section of the corridor. So this is for the Las Vegas region. So as you can see there's some great opportunities; there's also some constraints. We would like to recommend for a more detailed study, Alternative BBQQ, which is that new corridor along the eastern side of the

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

valley -- or outside of the valley, actually. We think there's some really great opportunities, including travel time savings, more direct routes in between logistic centers.

The majority of the corridor has been in long-term transportation improvement plans, so it's been in that sort of unfunded long-range plan for quite some time. So certainly the region has seen a need for an eastern connection, if you will. It provides the most direct connection to the CANAMEX Corridor, so that that connection from 93 south of Las Vegas to I-15 going north, as well as the opportunity to connect to Northern Nevada via 95. It certainly is not without constraints, as you might imagine. There are definitely some environmental constraints as well as some land ownership constraints. We've heard some concerns from the National Park Service, as well as the City of Henderson.

Findings for the other alternatives, which are also feasible alternatives, we just don't feel they meet the goals and objectives of an I-11 type facility as well as BBQQ. But Alternative Y along the western beltway, minimum environmental impacts and low preliminary estimated costs due to using, you know, sort of expanding an existing facility where there's available right-of-way. However, there is some inconsistency with the land use along that corridor. It would be very difficult to accommodate other modes in this corridor, and it would have air quality impact, adding traffic through populated areas.

Alternative Z, fewer environmental impacts than BBQQ, but still has quite a few. It would use existing corridor, but that corridor does need quite a bit of improvement already. The constraints, you know, anytime you're adding traffic to an already congested area, even with expansion of that system, it would be very difficult to build our way out of congestion if we're using that corridor. Certainly, very high impacts to air quality, which is a big concern for this region, highest total vehicle hours of delay, poor travel speeds. And, actually, when we looked at the improvements that are needed on this corridor already, as well as expanding it to be able to accommodate additional traffic from an I-11 type facility, it actually came out with the highest estimated cost.

In addition, we looked at -- or actually as part of this analysis, we looked at the opportunities to include other modes as part of this corridor. So we kind of looked at what's the ideal width if we wanted to include highway, including frontage road, utility, and the potential for railroad as well. And then we looked at these recommended portions of the corridor and which ones could potentially accommodate all modes or multiple modes. If our recommended alternatives could not accommodate those modes, we looked at what are some parallel or alternative

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

routes that could accommodate these other modes, if the highway is built on our recommended alternative.

So, and this is the entire Congressionally designated corridor from Phoenix to Las Vegas and our, you know, the level two recommended alternatives that were evaluated. And the area that is -- I know it's difficult to see, that's highlighted in green, we felt could accommodate highway, rail and utilities. The area with the orange, we felt could most likely accommodate, and in some areas already does, highway and utility. And the blue areas, we felt could only accommodate the highway.

So then we looked at, you know, the whole corridor and looked at the existing rail lines and the opportunities to connect some of those links to provide a potential North-South rail corridor that loosely follows our recommended I-11 corridor. And so the greenish-blue lines are existing rail lines, and the pink lines are those connections that would need to be made to make sort of a seamless North-South rail corridor.

So next steps, we'll be completing the level two evaluation with core agency partners, stakeholder, and public input. We have public input available through the end of this month. We accept it at any time, but to be included in this phase of the analysis, we're asking that input be provided by the end of this month. We'll be developing a planning level purpose and need for the Congressionally designated area corridor. In the connectivity segments, those areas north and south of the designated corridor, we're preparing feasibility assessment reports. Those are kind of wrapping up right now, actually. And then for the entire corridor, we'll be preparing a business case foundation. We actually have a workshop this week with transportation and economic experts meeting together for an entire day to talk about the business case for this corridor.

Planning and environment linkage checklists, each state has developed those and we're filling those out for the different sections of the corridor. An implementation plan, and our final deliverable will be a corridor concept report.

Upcoming meetings, as I mentioned, we have a virtual public outreach this month. That instrument should be up on our website today, tomorrow at the latest. And then we will have a joint stakeholder partners meeting. We'll be meeting in several locations all at the same time on March 19th, where we'll go over our final recommendations once we've received all that input. Then we'll follow that with a stakeholder partners meeting in May to discuss the implementation plan, business case foundation, and corridor concept report; sort of those final deliverables. And

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

that will be followed by a public meeting in June. And we'll be wrapping up the final report for the study in July.

We have heard from Arizona DOT that there is an event planned for March 21st between the two governors' offices. We're trying to stay in the loop on that and help out in any way we can. My understanding is that's an event to actually place a sign on the Arizona side that says future Interstate 11. And we're working on our process for signing our side as well.

This is a very busy figure, but we just wanted to talk about -- a little bit about where we are now and all the things it takes to actually start building something new. So we're wrapping up this corridor study. What we're recommending for that BBQQ alternative is rather than go right into NEPA, because that requires fiscal constraint and there's still some unanswered questions about that corridor, but do a more detailed -- what we're calling advanced planning study that we can actually do kind of some pre-NEPA analysis as well as really robust outreach with the stakeholders that are along that corridor that might have some concerns and hopefully find an alternative that is mutually beneficial to Park Service, City of Henderson, Bureau of Land Management, as well as the Department of Transportation. And then we would move into the NEPA process or the environmental process, and then eventually preliminary design, right-of-way acquisition, and construction.

So there is quite a lot to do before we move into that, but we think we've gathered a lot of information. We have a really good opportunity here and we want to keep moving it forward.

And, with that, there's my contact information. As you know, this is a joint effort between NDOT and the Arizona Department of Transportation, so my counterpart, Michael Kies, in Arizona is also there. And I'd be happy to take any questions.

Sandoval: Has the group settled on the 95 versus the 93, since the 93 wasn't even shown as an alternative?

Rosenberg: Yes. That was part of our level one evaluation, which I presented to you several months back. What we're recommending is if there is an extension of the Interstate 11, that that would follow 95, because that connects, really, the major activity centers. We are, however -- and this is the only section of the corridor where we're really doing this, is we're recommending that 93 get studied or developed as a statewide initiative. We do see some opportunities and the need to connect the eastern part of the state to the Las Vegas region. It just didn't fit the purpose and need of an interstate type facility, you know, a NAFTA trade corridor. Whereas

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

connecting the existing, you know, high-density activity centers made more sense for that.

Sandoval: And when you say you're recommending, to whom are you recommending that?

Rosenberg: Well, it's going to be in our corridor concept report where we kind of summarize what we've found. So we'll say we found that it's of statewide importance to develop the eastern corridor or the corridor on the eastern part of the state. It's really of, sort of, national mega region importance to develop the 95 corridor eventually to be an interstate connecting Reno and Las Vegas.

Sandoval: And who was the group that made that decision?

Rosenberg: That's a good question. That was based on input -- I mean, based on the initial analysis, we felt that 95 met the goals and objective of this corridor.

Sandoval: No, and I guess I'm asking who's we?

Rosenberg: The study team. But that was done in conjunction with the input we received. So initially we had only recommended 95. We received quite a bit of input from the eastern part of the state in really highlighting the importance of that corridor as well and the opportunities there. And that's when we sort of revised our recommendations to say, okay, this is important also. Not at the level that 95 is for a potential new NAFTA trade corridor, but to the state, it's still important to connect those areas as well.

Sandoval: It's just that's a pretty darn big policy decision that -- I guess, I don't feel like I had any say in that.

Rosenberg: Okay. And everything's still a draft at this point, so...

Krolicki: Governor, if I may. But -- and I appreciate your work, Sondra. And I'm -- I probably would not disagree with it. But at the same time, the last conversation we did have, we thought when there were pivot points and decision points, it would be brought back from a policy standpoint, because if you start committing at a staff level -- and again, you're a professional, I get it -- but at the same time, you start making decisions that make it tighter and the flexibility of the Board from a policy standpoint is limited, if not even existing at that point. So I would just hope that this is more of an engaging process as we go forward, so we can give our stamp of approval.

Sandoval: And I have a distinct memory recollection of saying that at least that there would be consideration by this Board on that issue. And today you're telling us that basically the decision has been made.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Rosenberg: Well, actually these are our draft recommendations. And that is why I'm here today to say here's what we're heard from our stakeholders and from the core agency partners and sort of our draft recommendations. Nothing's final at this point. So I am sort of coming here to say...
- Malfabon: That is the purpose of this presentation...
- Rosenberg: Right.
- Malfabon: ...Governor and Board members, so...
- Sandoval: Okay. Okay. All right. Further comments or questions? Member Skancke.
- Skancke: What time did you want to go home today? First of all, Sondra, outstanding job.
- Rosenberg: Thank you.
- Skancke: As someone who's been involved with this project since the genesis of it a number of years ago, I think you and your counterpart in Arizona have really taken this to a new level of where this Board and the ADOT Board will have some substantial input. And to the Governor and Lieutenant Governor, there have not been any decisions made on the alignments.
- As someone who's attended a lot of these meetings and been a part of this for a long time, it just -- I'm sorry, it -- from where it came from and where we are today, I think it gives us some real good perspective of what could happen. When this project first started with a group of folks in Arizona and a group of folks here in Nevada, it was interesting the amount of momentum that was built in the states of Washington and Oregon, when you start creating a new interstate highway, they actually jumped ahead of us about 18 months and started looking at how they would connect the Vancouver ports to the Mexican ports and the California ports. The amount of support in Congress from Senator Boxer and Senator Inhofe, who have nothing to do with this state, but saw the benefits of creating a new interstate highway -- I think the leadership Governor, from you, and from this department and our Congressional delegation has just been phenomenal.
- I've got a couple of things that I'd just like to ask as it relates to the EIS and how we might be able to expedite this project as we move forward with whatever alignment. I think it's very visionary to take a look at an eastern connector in Southern Nevada. The I-15 will be at capacity by 2020, 2022, and there is no more right-of-way along the I-15 corridor. The 215 does not make any logical sense if you want to have a multimodal corridor and possible freight rail connectivity as it relates to GOED initiatives of a logistics economy for Southern Nevada. This

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

report -- this presentation really clears the way for one of the GOED initiatives and the LVGEA's initiatives of creating a logistics economy for Southern Nevada, with possibly bringing in another freight railroad company to create some additional competition in pricing, as well as connectivity to Arizona and Mexico.

So looking at a multimodal corridor, looking at potential freight corridors, and other regional connectivity just makes logical sense. In my opinion, this type of vision actually takes the Southern Nevada's economy to a whole new level. So I don't think we should restrict any alternatives. But to me, looking at the 15 corridor or the 215 corridor, it doesn't make sense. As it relates to the 93 and 95, I won't go into that debate. But there are options for the 93 that I think we should look at. And we should keep in mind the eastern part of the State of Nevada. It's critical for their economic development. It's critical to the future funding streams for our state. And so I think we should leave the door open for those options. But I have some ideas of what we can do with the 93 corridor down the road, so to speak.

So I think it would be helpful to our Board, at least from my perspective, Governor, and to my colleagues, is to have something in probably April or even May of how we can simultaneously run some of these environmental processes to speed up the process of this project. There is another authorization coming forward. There likely won't be any funding on the federal level, but there's going to be more state responsibility. And I think that the more that this Board can plan and have a strategic vision of how we're going to take a look at the funding for this project, I think, is really critical. And, again, I think it's beneficial for us to be proactive as opposed to reactive. With the momentum that you've created with this, Sondra, and your team and your colleagues have created, and the national recognition for creating an interstate highway between these two municipalities, we should capture that momentum and not let some process slow us down.

Sandoval: Thank you, Mr. Skancke. Questions or comments from Board members? Member Fransway.

Fransway: Thank you. And, Member Skancke, just as a possibility, I would assume that a major portion of the proposed route, the corridor, would be using existing rights-of-way. And so I'm wondering if it may be an option to obtain an EA as opposed to an EIS as we proceed with the project. And I can tell you that an EA would definitely speed the project up, as opposed to an EIS. So just as a suggestion, if we can go with an EA, then it may be the route we should take.

Rosenberg: Thank you, Member Fransway. With the recommended alternative for Southern Nevada, it's actually an entirely new corridor. So I believe we would have to go through the full EIS process. But that's one of the reasons we want to do a more in-

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

depth study and actually do big outreach workshops with all the landowners along that corridor to see. There are some utility lines there, some utility rights-of-way, so there might be some opportunity there. So we want to really make sure we look at all of those opportunities and exhaust them all before we decide whether it's an EA or an EIS. But given the, you know, the nature of this and a new corridor, the likelihood is that it would be a full environmental document.

But we do see some opportunities with the federal government to streamline that process, especially if we do a little bit more in the planning process, where we do have extensive outreach with all of those partners, identify some of the concerns, identify some of the mitigation opportunities early on, that makes that environmental process shrink down quite a bit.

Fransway: Is there a supposed time frame as to when the entire state may be transited all the way through?

Rosenberg: Not at this time. Really a lot of that depends on funding. So if we get, you know, a huge windfall, yeah, we can move things rather quickly. But, as you know, there's quite a bit of financial constraint at this time.

Fransway: Thank you, Sondra. Thank you, Governor.

Sandoval: Mr. Lieutenant Governor.

Krolicki: Thank you, Governor. Sondra, please don't take any of my earlier comments as a negative. This is something I too have looked at for many years. And this is a project that will unleash so much economic potential and change lives. And it really is a transformative opportunity and we want to get it right. My only comment, not to slow down the process, but just to be partnered at the appropriate times when there are some strategic decisions to be made, just so that we have equity in these decisions. And, again, I don't want to do anything to slow you down. I want to do things to speed it up. But, again, that partnership is important and I think input is important.

And it was just my understanding from the last meeting, and I may have misheard you, but I thought you said the 95 corridor had been chosen over 93, and maybe that was not quite what you meant. It was perhaps a recommendation. But those -- that was the purpose of my conversation.

Rosenberg: Right.

Krolicki: I am excited. I'm thrilled. And just, the Board is ready to engage.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Rosenberg: Right. Thank you very much. And just to clarify, the 95 is our, you know, draft recommendation for the potential of extending this corridor north. We just wanted to recognize that both in our connecting Nevada, our long-range statewide plan, as well as some economic development plans for the eastern part of the state that there is some opportunity on that side of the state as well. It's not -- we don't feel it meets the goals and objectives of an interstate, you know, transnational type of facility, but there are still opportunities there. So they would -- might move forward on parallel paths, if you will.

Sandoval: Any other questions or comments? Thank you very much.

Rosenberg: Thank you.

Sandoval: We'll move to Agenda Item No. 11, Old Business.

Malfabon: Thank you, Governor, Board Members. Items A and B under 11 are the report of outside counsel costs and open matters and the monthly litigation report. And our Chief Deputy Attorney General, Dennis Gallagher is here to respond to any questions you may have. He's unable to comment on ongoing legal matters, but can update you on some things that you may have questions about.

Sandoval: Any questions on legal aspects of old business? There are none.

Malfabon: Thank you, Governor. Moving on to Part C is the fatality report. Good news is that we are -- in fact, I have the latest from February 6th, and it's even better than the January 27th report. We're actually eight below this time last year as of February 6th. As I stated though, there is a time lag between when information gets into the data base, but I think it's a good trend that we're quite a bit less than this time last year. Any questions on Item C?

Seeing none, could you queue up the presentation for interlocal agreements?

Next slide, please. So the background is that I was requiring certain agreements to come to the Board, and it was noticed -- we have all these University agreements, which were classified as interlocals. And interlocal agreements, in general, are not reported to the Board. That was based on Board approval of what would and would not be presented to the Board, regardless of whether it was for approval or informational. And when Mr. Hoffman was going through his presentation, he included in the Board packet, the previous, I believe, it was 2011 and the 2013 changes to that matrix for approval of certain items.

So beginning in the fall of last year, that's when I started requiring informational presentations in concert or with the fact that these agreements, if they were over

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

\$300,000, they were also in that portion of the Board packet for agreements. So the idea was informational to give you the background on that project or initiative, and then the agreement was in a separate tab in the Board packet. And as part of the recognition that there were some large agreements there, Governor, you requested the last two years of interlocal agreements.

Next slide, please. So what I took away was the Board was definitely concerned with certain initiatives that were requiring significant investment and expense. We had an obligation to provide the opportunity for Board discussion and direction prior to committing to certain initiatives. And it was also the concern that service agreements, particularly those ones that we were talking about with the university, in excess of \$300,000 are approved by the department without Board approval. So there generally was a concern about a lack of transparency.

Next slide. So let's start from what an interlocal agreement is, recognizing that in the end this is an informational item, but we expect a lot of discussion, and then a future action item for direction to the department on how to handle these in the future.

Interlocals are defined as an agreement by public agencies to obtain a service from a public agency. I cited an NDOT Transportation Policy number there, but it really comes from NRS, as far as the authority. And a cooperative agreement is an agreement between two or more public agencies for the joint exercises of powers, privileges, and authority. So there's really two types of agreements. You'll see the term agreement and contract used in NRS interlocal contract, cooperative agreement, but really it's an agreement between two parties and it just depends on whether it's to obtain a service or whether it's joint exercise of powers. But I cited the NRS there as far as the -- where authority is granted. And there is -- obviously the State Administrative Manual translates that into how to go forward and do these types of agreements, is for direction to the state agencies that enter into these types of agreements.

Next slide. So public agency is -- one of the questions was should these university agreements be interlocals or classified as interlocals? Well, public agency as defined in NRS doesn't specifically say universities, but political subdivisions of the state and it talks about counties, cities, towns, school districts, other districts, any agency of the state, a political subdivision of another state, or an Indian tribe or group of tribes. So the university, in our opinion, is basically an agency of the state. It's part of the Governor's Cabinet, as higher education. But the specific university is just a question of whether it's a public agency or not. I kind of provided the definition there. Governor, you have a question?

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: No, I just, I would love for the Board of Regents to hear you say that.

Malfabon: Oh, well. I know. Well, it's a -- yes. Maybe we...

Sandoval: You don't have to respond.

Malfabon: We're going to get there, so...

Unidentified Male: Do you want me to tweet that out?

Malfabon: Next slide. So types of interlocal agreements. There's definitely a public agency providing a service and definitely debatable on whether we are wrong on that, seeing the university as a public agency. The examples of university agreements: benefit/cost studies provided certain references to line items in your Board packet; the GIS data base and research projects, which I'll go into a little bit more in detail later. Those are the type of agreements we enter into with a university. Local public agencies; an example would be of a service type agreement. City of Mesquite providing landscape maintenance service at our visitor center there in Mesquite.

Next slide. Cooperative agreements. And probably the university agreements might be more of a cooperative. But, basically, I wanted to make the point that cooperative and interlocals kind of get jumbled together. But it's a public agency exercising joint powers and privileges and authority. So we use cooperative agreements a lot as local agency projects that are using federal funds that flow from NDOT, typically, to the RTC, and then they give it to the city or the county. An example of that would be Line Item No. 90, ITS improvements on Rancho. Rancho is a state highway, but the city is applying some federal funds to that project.

A local agency providing fund; an example of that would be Las Vegas Convention Visitors Authority, which is overseen by a Board of commissioners and council members in Southern Nevada, they provided the funding for the Tropicana Escalators Construction Manager at Risk Project. There's jointly funded programs, and cited some lines there as examples of projects or programs that are jointly funded, and those are primarily related to our Safety Program. And the Department of Public Safety collaborates with NDOT, and they receive some funds for safety, we receive that. We both rely on the state highway fund to jointly fund those, as well as federal funds that they receive.

Next slide. The Research Program. We use the interlocal agreement process for those research projects, but they're ranked through a committee. It's a two-step committee, so there's a research advisory committee that ranks the research

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

projects. And then eventually it gets to the management committee, Research Management Committee, that selects which projects will receive the federal funds, typically. And what I'm proposing to change on the research program is to have an annual presentation to the Board on which research projects are funded through our research program.

Next slide. So this is the research process. It's a constant cycle. It starts with -- basically, if you look on the left side, the yellow box, we start basically on the new federal fiscal year getting research topics provided to the department, and then we ask for proposals on those. So we get a problem statement and then eventually a proposal. Those are ranked and approved. And this cycle goes through until we have basically the research program submit that to the Federal Highway Administration for final approval.

And next slide. What I'm proposing is that we would bring the research project as an annual presentation to the Board, so you see where the research funds are going to. And some of these are pooled fund studies that we join in with AASHTO or other state DOTs to support.

Next slide. The gist is that, as I mentioned last fall, we're requiring now presentations to the Board in advance. Now, although the presentations are informational, if the project -- if the agreement with the entity performing the service is over \$300,000, they will be coming to the Board for approval. Examples were the Oracle Business Intelligence Support contract with the University of Nevada, Las Vegas. Upcoming we will have a presentation next month on the planning portal, which will gain some efficiencies in having a STIP process, or State Transportation Improvement Program process. It's electronic instead of on paper.

And another one would be Congress sometimes gives money to the USDOT through the, what's a program called RITA, Research Innovation and Technology Administration. They select or provide grants to consortiums of universities. In the past, UNLV had a UTC. And there's one that's currently a grant that's been received by UNR and a consortium of other universities, including UNLV. In those kinds of cases where there's a UTC, basically that university consortium comes to NDOT and says will you provide the state match for the federal funds? So there's a 50/50 match program under that grant program. Those types of things will be coming before the Board for approval. So that University of Reno and Las Vegas grant program will come to the Board next month for formal approval to expend state funds for that type of effort.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Next slide. Now, this is not a complete menu of options, obviously. The Board could direct NDOT to present interlocal agreements, regardless of whether it's a university or not. But if it's a service over \$300,000 we could bring that to Board for approval, for Board action. It would be an action item. We could also present these agreements, regardless of whether it's a university or a local agency; we could bring them for information. But it's really the pleasure of the Board. As I stated, it's an informational item. But we just wanted to have the discussion of what the Board would like to see going forward. But definitely transparency is what's desired by the Board. We understand that and we're willing to talk about the specific questions you may have on several of these interlocal agreements.

Next slide. So that kind of gives an overview of what interlocal agreements are, the authority that's granted to the department and why we saw, probably, you know, whether universities are public agencies or not, they're kind of quasi. But we definitely want to have the -- be more transparent with the Board. And as far as some of the lengthy list of agreements that were not reported previously because they were classified as interlocals, the first couple pages are primarily university agreements. And a lot of those are either service agreements -- we felt that those would come to the Board for approval, regardless of that, because we're classifying more as service now and some of those were UTC. In other words, the university received a grant for research, federal funds, and we were providing the match of state funds to perform that research. And we had an opportunity to tell the university what to research. So it was a benefit to the department, not a waste of taxpayer funds just for the sake of research.

Several in there were related to the Vehicle Miles Traveled Study or the distance-based user fee. I wanted to make the point that those, number 18 and 19 are actually the same agreement. There was, since it was some of that was receivable from other states that were joining in on our study in Nevada, the numbers were incorrectly identified in the first draft of that agreement, but it had been executed before that error was caught. So we basically replaced that with number 19. So it's not in addition to, it's actually the same agreement. Roughly the numbers changed a little bit, but the receivable amount was substantially more for that VMT study, which was placed on hold based on previous discussions by the Board.

The other study that was related to the Vehicle Miles Traveled initiative was number 12. And that one was going on, but we have the opportunity, should the Board desire, to place that one on hold as well.

When you get into Page 3, that's where we had a lot of research-based agreements. One of those was related to distance-based study, so another VMT-related initiative. And then a lot of those are typically the research process or UTC-type

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

process, where a university receives a federal grant and we're identifying what they can research for us to use up that grant funding from the federal government with state funds to match.

Then you get into the -- on Page 8 of 19 and thereafter, a lot of them are related to either the MPO, the Metropolitan Planning Organization, RTC, city, county, another state or local agency, or another state agency, such as the ADOT agreement with the study that Sondra had mentioned giving the presentation on I-11. But these are the types of agreements. And I know that the decision was made not to report interlocals, but definitely we would like to eventually have an Agenda Item, should the Board decide that they want to change that policy and see all interlocals and which ones they'd like to have for approval. As I looked at it, I think that you probably want to see all of these interlocal agreements on a regular basis rather than not be aware of some of these things.

Many of the project related agreements are typically identified in the STIP process, if they're using federal funds, and the Board sees that -- approves that STIP on an annual basis. But project level agreements are happening independently from the Board approval of the STIP. It's just the STIP document, the Statewide Transportation Improvement Program, which the Board approves, identifies the funding sources. So it would say state funds to match federal, for instance, or local funds to match a federal commitment to a project. But that's probably why the previous administration felt that the Board wasn't seeing those or put it as interlocals, because they were thinking more of the project related agreements. But, as you can see by this list, there's a whole kind of range of types of agreements that previously were interlocal -- considered interlocal.

Sandoval:

Thank you. Thank you, Mr. Director. And we've lost three of our members, so we're not going to make the decision today. I mean, I appreciate -- again, I understand this is a lot of work to present this. And I guess my point is this, and I'm not sure where I'm going to land. I know the Controller has her opinions. I just feel like sometimes we're sitting here as a Board and I'll just speak for myself, and we see the tip of the iceberg. And there's a whole big piece that's moving that we're never aware of. And then every now and then something will pop up, like what we had on the Agenda today. And we're not aware of it and we didn't know that it happened, and then suddenly we've got to make some policy decisions with regard to that.

You know, all these -- I mean, just two years, I mean this is a lot of agreements that none of us know about. And I know I can speak for myself. I don't want to have to review and approve every one of these. It just is, practically, not a good idea and it would interfere with the operations of what happens at NDOT. But I do want the

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

opportunity to be at least aware of it. And I like the idea -- I know it won't look like this every month, because this is two years' worth.

But there's just little questions that I'd like to ask along the way when this is an informational item, like I asked about with all these university contracts. I love our universities, but sometimes an issue comes up with regard to the administrative fee that is attached to it. And a lot of -- you know, we found this on the Board of Examiners...

Malfabon: Yes.

Sandoval: ...where sometimes there was up to a 50 percent administrative take. And so only half the money was actually going to the study or the service and the other half was going to overhead and other things. So I just am curious about those things.

And then, as you say, we don't want to study things for the sake of study. I mean, I would imagine there's a product at the end of this, because there's some pretty big numbers on here.

Malfabon: Yes.

Sandoval: \$610,000, \$158,000, \$56,000. And there's a deliverable, I would imagine, at the end of these studies. And a binder is turned over to the department and someone at the department reviews it and looks through it and says, oh, we're going to use this and implement it as part of a project or a policy or what have you. But I'm just -- you know, I think all of us have a big responsibility here sitting as the Board.

Malfabon: Yes.

Sandoval: And if there's a big piece of this operation that's going on that we don't know about, yeah, it just kind of, for me, undermines why we're here.

Malfabon: Yes.

Sandoval: So, you know, I appreciate your efforts here in terms of transparency. You know, the Controller mentioned, I want the -- she's moving toward having all of these on our Agenda every month. And I just, you know, Member Skancke said it best today. We don't want to slow these projects down. We don't want to slow jobs down. We don't want to slow down the agreements between NDOT and the local transportation boards and commissions, all of that. There are a lot of moving parts here that, again, we're not aware of, that I don't want to interfere with.

But we do -- as I said, I think moving forward, I don't necessarily disagree with what you've recommended here, that similar to what we have on these other

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Agenda items is a piece that shows us, for information purposes. And if somebody wants to ask a question, they can. And they have the opportunity. It means a lot more work for the Board members, frankly. It probably means a lot more work for you as well. But once we get into the rhythm, I think it'll work out better for everybody.

Malfabon: It's the right thing to do, Governor.

Sandoval: Mm-hmm. So, Member Fransway.

Fransway: Thank you, Governor. Rudy, will relinquishments, road relinquishments be defined as cooperative or interlocal? Certainly, I would think that those agreements would come before the Board for approval.

Malfabon: Yes. We feel that those are substantial commitments for those road swaps, road transfers, road relinquishments. And we would bring those to the Board for approval. And if they're not clear in the matrix, then we would make that basically as an action item in the future, to make that certain and that the Board would approve of that policy change.

Fransway: I would be in favor of that. Thank you.

Sandoval: Member Savage.

Savage: Thank you, Governor. And thank you, Mr. Director, for your presentation, your disclosure and your transparency. Just a couple quick questions and comments. On Pages 1 through 7, there were a total of 70 agreements with the universities. And I'm all about education and supporting both universities, but it totals around \$20 million in both UNLV and University of Nevada, Reno. And I don't know if it's possible or not as to getting the underlying consultants' names and their percentages, similar to what UNLV presented last month on the Oracle Business Intelligence, and they listed their consultant and the percentage of involvement with that dollar amount. And I don't know if that information's already readily available.

Malfabon: It is.

Savage: Or, I would be interested in seeing that, if that's available, Mr. Director. And I think that would benefit the transparency as well.

And, lastly, you had made a quick comment on Item 12 regarding the Sustainable Transportation Funding Study, and that is a state project for \$1.590 million. And you'd made reference to this earlier during your oversight review. You know, I look at that Blue Diamond \$1 million and I look at this \$1.590 million. How far

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

down the road are we with this commitment to whether or not we can take some of those funds and possibly utilize those for the Blue Diamond? Or is that too far gone?

Malfabon: I believe we're about half way through this substantial contract with UNLV and its subconsultants. I don't know if -- this is one that we had ongoing. Now, we put the other one, number 19, on hold. This one was continuing, so...

Savage: And I don't know. You had made mention to that. That's the only reason I wanted to follow up with that. It's something the department might look into if it's feasible. If we're already committed, I certainly understand. But it's just another avenue. Thank you, Governor. Thank you, Mr. Director.

Sandoval: Before I go to member Skancke, just another question, Rudy, is the money we spend here is that the same bucket of money that would come out of where we could be putting more money toward road projects and such?

Malfabon: Yes, because a lot of those substantial contracts -- they might say -- some might be federal. Usually that's a different category of state planning and research funds. But when it says, N, No, that's state highway funds that could be going to construction contracts. Obviously, we wouldn't take the initiative of doing some of these projects, because we're trying to gain some improvements, as was presented on that Oracle Business Intelligence, as an example, or the electronic STIP planning portal. Those are the kind of initiatives that we want to get enacted to gain some efficiencies. But when we obligate all of our federal funds that are available, that's when the department has been using state funds for some of those efforts.

Sandoval: Mm-hmm. No, and I just, you know, I think this is more of a diatribe than anything else, but I want to -- I'm hoping that we can deploy as much money on the ground as we possibly can. And when there is, you know, a choice -- I mean, that's something I would hope would be factored in, is, you know, we can study this or we can put more money toward road projects. I mean, we took a pretty good bath last year in settlements. And that's money that comes out of this road fund as well. And, again, that's why I think it's important for us to be aware of what's going on. But, you know, I think we're doing a lot better managing things so that we're not paying these big settlements that come out of that highway fund that could have otherwise gone toward more road projects and we...

Malfabon: Yes. And that's why we had started bringing some of these larger cost initiatives to the Board for your approval or information for basically the program elements or an overview of what we're trying to achieve. And then you would see the contract for your approval, if it was over \$300,000...

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Sandoval: Mm-hmm.

Malfabon: ...or information, if it was less. But we started making that change. But when we saw all of these previous ones, it started raising the same questions on our side about are these really service agreements or are they interlocal agreements?

Sandoval: Because it would be interesting to me and I -- you know, we see what the highway fund is. But then there's that dollar figure and then there's the dollar figure that actually goes to highway projects versus, you know, other expenses.

Malfabon: Yes.

Sandoval: And, you know, as I said, I, you know, Mr. Skancke mentioned it today, for me, you know, I think about jobs, I think about improving the transportation infrastructure. And I just want to make sure that we're spending every dollar that we have in the best way possible.

Member Skancke. Okay. Member Savage, and then Member Skancke.

Savage: Yeah. Excuse me, Governor. I needed to make one correction on that \$20 million amount for both universities. That included last month's \$4.7 million Oracle Business Intelligence agreement as well. So that's incorporated in that \$20 million. Thank you, Governor.

Sandoval: Yes.

Savage: I just wanted to be clear.

Sandoval: Sure.

Skancke: Thank you, Governor. I've got a couple questions for you, Rudy. In this university grants and colleges, does that include like faculty who write grant requests from USDOT for research projects on their own and that flows to the department? Or does that go through the university? How does that...

Malfabon: Those RITA grants go directly to the university. So the university approaches the department with, hey, can you help us out with matching funds? In the past, with the UNLV, the Tier -- I think it was a Tier 2 university center, UTC, they actually were getting funded jointly by RTC of Southern Nevada and NDOT. And because of the tightness of availability of funds, RTC had to kind of withdraw from that arrangement with the university. And NDOT was basically guiding and directing what research would be conducted with the state funds that we matched with.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Skancke: Governor, to your point of having every penny go to construction projects and making sure that our fuel tax dollars are going to roads and projects and there's lots of research, but I think it would be worthwhile for us to take a look at -- and this is, again, my comments are not disparaging towards any faculty or any universities, but when they write those grants and they get the grant and then they come to you for the matching funds, my instincts would tell me that if that doesn't play into some type of systemic solution to our transportation infrastructure issues in the state, we should probably take a look at whether or not it's -- boy, I don't even know what -- worthwhile is not the right word, but worthwhile, I guess, is the best thing to say.

Grants can be written all the time. And faculty love to write grants and generate revenue. But at the end of the day, if we have to match those grants and those grants don't apply some type of systemic solution to what we're looking at, I really think that this Board should have some input as to whether or not that actually is beneficial to the state Board and the highway trust funds. I'm not saying that they shouldn't be doing that. It's just that there's lots of federal programs at USDOT that people love to go after. And I think it has to have some type of systemic impact to what the department -- what the goals and objectives of the department are, what the Governor wants to achieve while he's governor; and how does that play in overall.

Malfabon: I know that, Member Skancke, what I foresee is that, when a university -- and I've seen this with the University of Nevada, Las Vegas. They actually approach NDOT before the grant is actually submitted in for competition. That they have basically a discussion with NDOT on what they can do for the department, and they want to get a commitment. Obviously, that would be coming before the Board before we would commit to even -- so you know, even before it's competing for this federal grant process, that the Board gives the department authority to commit state funds as a match.

So that's what I would see that it's done very early, even before they're selected, that the Board would know that there's a grant opportunity for the universities in our state to compete for and that you're supportive of that. Recognizing that maybe the actual research projects are not identified at that phase but, overall, you understand that there is a commitment that the Board would like to make for that effort.

Skancke: And, Governor, if I could, just two more comments. I absolutely agree with you on our partnerships and administrative fees. And, as you look at some type of policy recommendation to come back to the Board, Rudy, in addition to your \$300,000 level, I would like to suggest that if there's an administrative fee of 50/50 in that,

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

that the Board have some type of input as to what that is. Having been involved with a lot of those types of grants over the years, when that administrative fee is 50/50, that's a cost to the program. And I think that this Board should actually have at least the knowledge of whether that admin fee is 50/50.

My final comment is I like the \$300,000 level. That's consistent with what the Board has put before you. But knowing how -- this is no reflection on anyone in this room, this is people that may come after us, but I would hope that we would not try to lower those contracts to \$100,000 or make it three or four contracts at \$50,000 to get past that \$300,000 threshold. I'm not saying you or anyone else would do that, but someone may try to pull a fast one on you and come back every month with a \$50,000 request. So we're the adults and I would hope that we would, you know, use our better discretion and err on the side of disclosure, as opposed to someone trying to pull a quickie and get around these things.

There's always ways to get around. And I think what the Governor's asking, I think what the Board is asking, is that we just -- not even just play by the rules, but just do the best in the interest of the people of the State of Nevada.

Malfabon: In response to Member Skancke's comments, I recognize that. And, for example, on the next month's Agenda, when you consider the electronic STIP and the planning portal, I asked staff specifically what -- you know, give me all the phases you still have to do so that can be presented. I told them to prepare the presentation to the Board, but not just this agreement for this little piece or this phase. What is the big picture and if there are other steps to take. The Board doesn't want to feel that they're committing to this piece, and then we come back later and tell you we're amending or going to the next phase for millions more than you were presented initially.

Skancke: Thank you. Thank you, Governor.

Sandoval: Any other comments on this Agenda Item? I would put it back on only for the, obviously, so that next month the Controller and the Lieutenant Governor and Member Martin will have some input. But I think it will be ripe for action at that time.

Malfabon: Very well.

Sandoval: And we'll move on to 11E, which is the report on the Freeway Service Patrol.

Malfabon: Yes. The Freeway Service Patrol information is provided there with our new service provider, United Road Towing, Incorporated. Previous presentations have been made to the Board on this contract. I wanted to make that point about

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

Freeway Service Patrol Technician Yancy Baglio, about basically saving a child's life. That was amazing that one of our service providers could make that much impact to a motorist and her child. So we definitely felt it was worthy of mentioning in this highlight. Any questions from the Board on the Freeway Service Patrol program or the data?

Sandoval: Member Savage.

Savage: Thank you, Governor. Real quick, Mr. Director. Is the vendor providing the vehicles, do we know?

Malfabon: Yes.

Savage: The vendor is. Okay. And I think it's great that you bring this up quarterly, just to keep our hands on the wheel again. And that last question is the incident response vehicle, I see where it doubled in November to December down in Las Vegas -- actually more than doubled, and I know there was a comment that we're keeping our eye on that as well -- from \$17,000 to \$46,000. So I think it's important that we keep -- whether or not we need the IRV or we can reduce that, I think is something that we need to look at. And I think you're on top of that, I would imagine.

Malfabon: And Denise Inda, our Chief of Traffic Operations could respond to that.

Inda: Good afternoon, Governor, Board Members. As you see, the numbers -- the IRV was started beginning in November. And so we're working really closely with all of the involved partners in the Las Vegas area to fine tune and keep that program functioning right. I think the numbers are -- we'll be able to better evaluate over time, once we get a better feel for how that program operates and what its benefits and values are. There -- it did not -- during the first month, we did not utilize the IRV program as much, because there were not incidents that were of the level that qualified for their response.

Sandoval: Okay.

Inda: And so that's what you see -- the difference in numbers is right there. But you are absolutely correct. We're going to be watching over time...

Sandoval: Mm-hmm.

Inda: ...how the IRV and FSP work together, what the right balance is, because we absolutely want to keep this the most effective and efficient program that we can.

Sandoval: Mm-hmm.

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 10, 2014

- Malfabon: Thank you, Ms. Inda. Thank you, Governor.
- Sandoval: And just one quick question. Maybe you know it off the top of your head. But is the frequency of the mitigations for the Reno-Sparks FSP the same now as it was when we were doing it in-house?
- Inda: It's actually -- in Reno, it's actually -- I want to say it's a little bit higher. But we are making sure to monitor that. We think that's a key indicator of how well the program is performing. It's a little higher or maybe about comparable.
- Sandoval: Okay.
- Inda: But the cost is less.
- Sandoval: Yeah. Great. Thank you. Board members, any further questions with regard to Agenda Item No. 11?
- We'll move on to 12, which is public comment. Is there any member of the public here in Carson City that would like to provide comment to the Board? Anyone in Las Vegas that would like to provide public comment to the Board?
- Martin: No. There's no public here right now.
- Sandoval: Thank you. We wore them down. Okay. Agenda Item 13, adjournment. Is there a motion to adjourn?
- Skanske: So moved.
- Sandoval: Member Skanske has moved for adjournment. Is there a second?
- Savage: Second.
- Sandoval: Second by member Savage. All in favor say, aye.
- Group: Aye.
- Sandoval: Motion passes. This meeting's adjourned. Thank you for your patience.


Secretary to the Board
Preparer of Minutes